FEDERAL REGISTER

VOLUME 22 NUMBER 22

Washington, Friday, February 1, 1957

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM COMPETITIVE SERVICE

DEPARTMENT OF THE ARMY

Effective upon publication in the FEDERAL REGISTER, paragraph (h) (1) of § 6.105 is amended as set out below.

§ 6.105 *Department of the Army.* * * *

(h) *Army Language School, Presidio of Monterey, California.* (1) Language instructor positions, and professional positions in the language divisions whose duties require developing and evaluating instructional material or supervising the language instructors.

(R. S. 1753, sec. 2, 22 Stat. 403; 5 U. S. C. 631, 633)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] WM. C. HULL,
Executive Assistant.

[F. R. Doc. 57-766; Filed, Jan. 31, 1957; 8:50 a. m.]

TITLE 6—AGRICULTURAL CREDIT

Chapter I—Farm Credit Administration

Subchapter B—Federal Farm Loan System

PART 10—FEDERAL LAND BANKS GENERALLY

INTEREST RATES ON LOANS MADE THROUGH ASSOCIATIONS

In order to reflect approval of an interest rate of 5 percent per annum on loans made by the Federal Land Bank of St. Paul on applications taken on and after February 1, 1957, § 10.41 of Title 6 of the Code of Federal Regulations (21 F. R. 10167) is hereby amended, effective February 1, 1957, by substituting "5" for "4½" in the line with "St. Paul" therein.

(Sec. 6, 47 Stat. 14, as amended; 12 U. S. C. 665. Interprets or applies secs. 12 "Second", 17, 39 Stat. 370, 375, as amended; 12 U. S. C. 771 "Second", 831)

[SEAL] R. B. TOOTELL,
Governor,
Farm Credit Administration.

[F. R. Doc. 57-765; Filed, Jan. 31, 1957; 8:50 a. m.]

Chapter IV—Commodity Stabilization Service and Commodity Credit Corporation, Department of Agriculture

Subchapter C—Export Programs

PART 483—WHEAT AND FLOUR

SUBPART—WHEAT EXPORT PROGRAM—PAYMENT IN KIND (GR-345) TERMS AND CONDITIONS

MISCELLANEOUS AMENDMENTS

The Terms and Conditions of the Wheat Export Program—Payment in Kind (GR-345) (21 F. R. 6627) issued on August 30, 1956, are amended as follows:

1. Paragraph (c) of § 483.106 *Designated countries* is amended to read as follows:

(c) Exports of wheat are eligible under this program only if made to the country and buyer named in the Declaration of Sale and if the exporter has not shipped, transshipped, or caused the wheat to be transshipped to any other country or to any other buyer unless either prior to or after exportation the exporter has obtained the written approval of the Director of an exportation to a designated country or to a buyer other than that named in the acknowledged copy of the Declaration of Sale.

2. Section 483.108 is amended to read as follows:

§ 483.108 *Excess quantities loaded.* Payment will not be made on quantities loaded on vessels, cars or trucks which are in excess of the quantity shown on the Declaration of Sale plus either of the following tolerances as applicable: (a) A loading tolerance not to exceed 10 percent as shown on the Declaration

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FEDERAL REGISTER

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CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

of Sale, or (b) a 1 percent tolerance if no loading tolerance is shown on the Declaration of Sale. A new Declaration of Sale and a new Notice of Registration are required for any additional quantity loaded.

3. Paragraphs (d) (e) and (g) of § 483.131 *Determination of rates* are amended to read as follows:

(d) Sales may be made through a third principal party but for the purpose of this subpart the third principal party will be considered as an agent or intermediary and the sale as being between the exporter and the foreign buyer. The time of sale shall be determined by reference to the factors listed elsewhere in this section. The evidence of sale required by § 483.137 (d) shall include documents exchanged between the exporter, the foreign buyer, and the intermediate third party.

(e) A sale shall not be considered as entered into until the purchase price has been established, and time of sale shall be the earliest time on which a firm contract exists between the foreign buyer and the exporter and on which a firm dollar and cent price has been estab-

lished as provided in paragraphs (a), (b) and (c) of this section. In order to receive payment at the announced rate in effect at the time of sale, it is important that the exporter give timely Notice of Sale as required by § 483.135 (a) and present documentary evidence that the sale was entered into at such time.

* * * * *

(g) If the time of day at which the sale was entered into is not established and two payment rates are in effect on the day the sale was entered into, the time of sale will be deemed to occur at the time the lower of the two rates was in effect.

4. Section 483.137 *Declaration of sale and evidence of sale* is further amended by renumbering paragraph (b) (15) as (b) (16) and adding a new paragraph (b) (15) which will read as follows:

(b) *Information required.* * * *

(15) Where the exporter intends to ship, transship, or cause wheat to be shipped or transshipped to one or more of the countries or areas identified in § 483.106 (b) (1), (2) and (3), the license issued by the Bureau of Foreign Commerce, U. S. Department of Commerce, for such movement, shall be identified. With respect to any such movement to Hong Kong not requiring a specific license, the exporter shall state that a specific license is not required.

5. Section 483.145 is amended to read as follows:

§ 483.145 *Application for Wheat Export Payment.* An original and two (2) copies of Application for Wheat Export Payment, CCC Form 357, must be prepared and submitted together with the evidence of exportation, as provided in § 483.147, to the CSS Commodity Office shown on the acknowledged copy of the Declaration of Sale which is returned to the exporter. Applications for certificates earned on shipments in connection with which the exporter purchased wheat from CCC for simultaneous loading as provided in § 483.158 (b) (3), shall be annotated to show that the transaction was a simultaneous loading and to identify the sales contract number assigned by CCC to the sale of wheat for simultaneous loading. Exporter should submit application as soon as possible after exportation as the face value of the certificate is subject to discount as provided in § 483.146 (b). Supplies of CCC Form 357 and detailed instructions regarding the preparation and submisison of the form may be obtained from the CSS Commodity Offices in Chicago, Dallas and Portland (Oregon).

The last sentence of paragraph (d) of § 483.146 *Description of certificate* is amended by inserting following the word "restrictions" the words "contained in § 483.146 and in the sections beginning with § 483.155 through the end of this subpart applicable to the person or firm to whom it was originally issued." The amended paragraph reads as follows:

(d) *General provisions.* The Wheat Export Payment Certificate will be redeemable in wheat which Commodity Credit Corporation makes available from its stocks. The certificate may be presented to the Chicago, Dallas or Portland offices of Commodity Stabilization Service, as provided in § 483.155, for wheat handled by the office to which submitted. The certificate may be transferred by endorsement subject to all terms, conditions and restrictions contained in § 483.146 and in the sections beginning with § 483.155 through the end of this subpart, applicable to the person or firm to whom it was originally issued.

Section 483.147 (a) is amended to read as follows:

§ 483.147 *Documents required as evidence of exportation.* (a) Each application for Wheat Export Payment (CCC Form 357) must be supported by the following documents as applicable unless otherwise approved by the Director.

(1) If the exportation is by water, a non-negotiable copy of the applicable on-board ship ocean bill of lading signed by an agent of the ocean carrier, which shows the weight of the wheat, the name of the vessel, and that the wheat is destined for the foreign buyer(s) and the country of destination identified on the Declaration of Sale. In the case of bagged wheat, ocean bill of lading showing the gross weight of the wheat and the number of bags may be furnished, provided the ocean bill of lading also shows the weight of the bags or the exporter furnishes an acceptable certification as to the weight of the bags. Where loss, destruction or damage to the wheat occurs subsequent to loading aboard the ocean carrier but prior to issuance of on-board ship bill of lading one copy of a loading tally sheet or acceptable similar document may be substituted for the ocean bill of lading. If the country of destination shown on the ocean bill of lading differs from that shown on the Declaration of Sale, the exporter shall also furnish one copy of Shipper's Export Declaration, authenticated by the appropriate United States Custom official, showing that the country of destination is, in fact, the country named in the Declaration of Sale or, with the approval of the Director, a certification by the exporter that the country of destination is, in fact, the country named in the Declaration of Sale.

(2) If exportation is by rail or truck, one copy of Shipper's Export Declaration, authenticated by the appropriate United States Customs official, which identifies the shipment(s), the date of clearance into the foreign country and the weight of the wheat, or if bagged, the weight of the wheat less the weight of the bags.

(3) One copy of an Export Grain Inspection Certificate issued by an inspector licensed under the United States Grain Standards Act. If the Inspection Certificate shows mixed wheat, it will be necessary for the grade designation to show the approximate percentage of each class of wheat which constitutes more than 10 percent of the mixture.

(4) On bulk wheat, a copy of the official loading weight certificate.

(5) Where shipment is exported from a Canadian port,

(i) One signed or certified true copy of the bill of lading or other document covering the movement of the wheat from the United States to Canada, and

(ii) One signed or certified true copy of the document evidencing the holding of the wheat in customs bond in Canada.

8. Section 483.153 (a) is amended to read as follows:

§ 483.158 *Payment terms and financial arrangements.* (a) The amount due CCC for wheat purchased hereunder shall be paid by the purchaser by surrender to CCC of properly endorsed Certificate(s) earned prior to the date of sale by CCC, or in the case of simultaneous loading, as provided in paragraph (b) (3) of this section, with certificates earned on such simultaneous loading. If the purchaser does not make payment in such manner, such purchaser may be denied the right to continue participating in the program. If certificates having a value in excess of the purchase price are surrendered by the purchaser to CCC, unless otherwise requested by the purchaser the certificates having the earliest dates of export shall be applied first to the purchase and any certificates not applied shall be returned to the purchaser. If the value of certificates applied to the purchase exceeds the purchase price, such excess will be adjusted by issuance and delivery to the purchaser of a balance certificate which may be used on a subsequent purchase from CCC. The date of export shown on the balance certificate will be the date shown on the original certificate, or if more than one certificate is applied to the purchase, the date of export shown on the balance certificate will be the latest date of export shown on a certificate applied to the purchase, unless otherwise requested by the purchaser. The purchaser may request that the balance certificate be issued with the date of export shown on any certificate submitted provided the face value of such certificate exceeds the face value of the balance certificate. The face value of the balance certificate will be determined by deducting from the face value of certificates surrendered to CCC in connection with the purchase of wheat the amount of the purchase price of the wheat and any discount applicable to the portion of the certificates being applied to the purchase under § 483.146.

9. Section 483.161 (a) is amended to read as follows:

§ 483.161 *Export requirements.* (a) The purchaser shall, within 60 days after delivery of the wheat to him or within such extension of that period as may for good cause be authorized by CCC in writing before or after expiration of such 60-day period, cause exportation to a designated country as defined in § 483.106 of wheat equal in quantity and of the same class and from the same coast in the United States as the wheat delivered by CCC. The requirement that wheat of the same class be exported may be satisfied by exporting a quantity of mixed wheat which contains, as evidenced by the Export Grain Inspection Certificate, a quantity of wheat at least equal in

quantity and of the same class as that delivered by CCC.

10. Section 483.162 is amended to read as follows:

§ 483.162 *Proof of exportation.* (a) Proof of exportation shall be furnished within the period specified above and shall consist of:

(1) In the case of wheat exported by water, a non-negotiable copy, certified by the exporter as true and correct, of the applicable on-board ship ocean bill of lading, signed by an agent of the ocean carrier, showing the weight of the wheat, the date and place of loading, the name of the vessel, the name and address of the purchaser and the consignee, the destination, and the CCC sales contract number. In the case of bagged wheat, ocean bill of lading showing the gross weight and number of bags may be furnished, provided the ocean bill of lading also shows the weight of the bags or the exporter furnishes an acceptable certification as to the weight of the bags. Where loss, destruction, or damage to the wheat occurs subsequent to loading aboard the ocean carrier but prior to issuance of on-board bill of lading one copy of a loading tally sheet or acceptable similar document may be substituted for the ocean bill of lading.

(2) If exportation is by rail or truck, one copy of Shipper's Export Declaration, authenticated by the appropriate United States Customs official, which identifies the shipment(s), the date of clearance into the foreign country, the weight of the wheat, or, if bagged, the weight of the wheat less the weight of the bags, and the CCC sales contract number.

(3) A copy of an Export Grain Inspection Certificate issued by an inspector licensed under the U. S. Grain Standards Act, showing the class and grade of wheat exported. If the Inspection Certificate shows Mixed wheat, it will be necessary for the grade designation to show the approximate percentage of each class of wheat which constitutes more than 10 percent of the mixture.

(4) On bulk wheat a copy of the official loading weight certificate.

(5) Such additional proof of exportation as may be required by CCC.

11. Section 483.187 is amended to read as follows:

§ 483.187 *Wheat.* "Wheat" means wheat grown in the United States and as defined in the official Grain Standards of the United States. The quantity of wheat exported which is eligible for export payment and which satisfies the exportation requirements of this subpart, shall be determined by deducting from the weight of the wheat (which shall not include the weight of any bags) any dockage indicated on the inspection certificate issued at the time of loading for export.

(Sec. 5, 62 Stat. 1072; 15 U. S. C. 714C. Interpret or apply sec. 2, 63 Stat. 945, sec. 104, 64 Stat. 198, 67 Stat. 358, 70 Stat. 966; sec. 407, 63 Stat. 1051, 68 Stat. 583, 70 Stat. 6; 7 U. S. C. 1641, 1642; 7 U. S. C. 1427)

Issued this 28th day of January 1957.

[SEAL] WALTER C. BERGER,
Executive Vice President,
Commodity Credit Corporation.

The appendix to the regulations is amended to read as follows:

APPENDIX—NOTICE TO EXPORTERS

The Department of Commerce, Bureau of Foreign Commerce (BFC) pursuant to the regulations under the Export Control Act of 1949, prohibits the exportation or re-exportation by anyone of any commodities under this program to Macao, Hong Kong, the Soviet Bloc, or Communist-controlled areas of the Far East including Communist China, North Korea and Communist-controlled areas of Vietnam and Laos, except under license issued by the U. S. Department of Commerce, Bureau of Foreign Commerce. These regulations further require that persons exporting, in the form acquired or in a processed form, under general license to friendly countries, commodities which are obtained directly or indirectly from the Commodity Credit Corporation (CCC) or commodities which are in substitution for commodities so obtained from CCC or commodities which are subsidized for export by CCC either through cash payment or payments in kind file with the Collector of Customs (in addition to any copies required for other purposes) one copy of the Shipper's Export Declaration for forwarding to BFC and send to BFC, Washington 25, D. C., one copy of the On-Board Ocean Bill of Lading (for exportations by rail, one copy of the Railroad Bill of Lading), for each shipment, regardless of value, involving sales of cotton textiles, other than cotton waste, of $10,000 or more and involving sale of all other commodities, including cotton waste, of $100,000 or more: *Provided,* That copies of the Shipper's Export Declaration and the Bill of Lading for BFC are not required to be submitted covering any shipments to Group O countries of cotton textiles other than cotton waste.

In the case of commodities purchased from CCC, or commodities being exported as "substitute" for such commodities, the $100,000 figure applies to the sales contract between the CCC and the U. S. purchaser. For commodities being exported under CCC Export subsidy programs, the $10,000 figure for cotton textiles (other than cotton waste) and the $100,000 figure for all other commodities (including cotton waste) apply to the sale contract between the U. S. seller and the foreign purchaser. Each of the documents for BFC must bear the notation "FC–2610" in the upper right-hand corner. The Bill of Lading for BFC must also bear the number of the corresponding Shipper's Export Declaration and the CCC identification number (CCC sales contract number or CCC subsidy registration number).

For all exportations of commodities covered by the program announcement, instrument or document which this Notice accompanies, the following statement is required to be placed on all copies of the Shipper's Export Declaration, all copies of the Bill of Lading and all copies of the commercial invoice to the foreign purchaser:

"U. S. law prohibits disposition of these commodities to the Soviet Bloc, Communist China, North Korea, Communist-controlled areas of Vietnam and Laos, Macao, or Hong Kong, except as authorized by the U. S."

The U. S. Commerce Department export control regulations also require that exporters, in or in connection with their contracts with foreign purchasers, where the contract involves $10,000 or more and exportation is to be made to a Group R country, obtain from the foreign purchaser a written acknowledgment of his understanding of (1) U. S. Commerce Department prohibitions (Comprehensive Export Schedule, Sections 371.4 and 371.8) against sale or resale for re-export of said commodities, or any part thereof, without express Commerce Department authorization, to Macao, Hong Kong, the Soviet Bloc, a Communist-controlled area in the Far East including Communist China, North Korea and Communist-controlled areas of Vietnam and Laos, and (2) the sanction or denial of future U. S. export privileges that may be imposed against any foreign purchaser for violation of the Commerce Department regulations. Exporters who have a continuing and regular relationship with a foreign purchaser may obtain a blanket acknowledgment from such purchaser covering all transactions involving surplus agricultural commodities and manufacturers thereof purchased from CCC or subsidized for export by that agency.

Where commodities are to be exported by a party other than the original purchaser of the commodities from the CCC the original purchaser should inform the exporter in writing of the requirement, for (1) obtaining the signed acgnowledgment from the foreign purchaser, and (2) for submitting the additional copy of the Shipper's Export Declaration and the Bill of Lading.

[F. R. Doc. 57–776; Filed, Jan. 31, 1957; 8:52 a. m.]

TITLE 7—AGRICULTURE

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

[Navel Orange Reg. 103, Amdt. 1]

PART 914—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

LIMITATION OF HANDLING

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 14, as amended (7 CFR Part 914; 21 F. R. 4707), regulating the handling of navel oranges grown in Arizona and designated part of California, effective September 22, 1953, under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.; 68 Stat. 906, 1047), and upon the basis of the recommendation and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the

declared policy of the act is insufficient, and this amendment relieves restrictions on the handling of navel oranges grown in Arizona and designated part of California.

Order, as amended. The provisions in paragraph (b) (1) (i) and (ii) of § 914.403 (Navel Orange Regulation 103, 22 F. R. 521) are hereby amended to read as follows:

(i) District 1: 623,700 cartons;

(ii) District 2: 300,300 cartons.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: January 29, 1957.

[SEAL] ELDON E. SHAW,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F. R. Doc. 57-773; Filed, Jan. 31, 1957; 8:51 a. m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

Subchapter A—Civil Air Regulations

[Civil Aeronautics Manual 1, Suppl. 1.]

PART 1—CERTIFICATION, IDENTIFICATION, AND MARKING OF AIRCRAFT AND RELATED PRODUCTS

FABRICATION INSPECTION SYSTEM

A new § 1.55–3 is added to require manufacturers to establish a fabrication inspection system within six months from the date of initial production of replacement or modification parts to assure that such parts are in conformity with the design data and safe for installation on type certificated products. Standards for the inspection system are also set forth.

Proposed rules were published in 21 F. R. 8820, on November 14, 1956. All interested persons have been afforded an opportunity to submit written views, data or argument and consideration has been given to all relevant data presented.

Accordingly, a new § 1.55–3 is added to read as follows:

§ 1.55–3 *Fabrication inspection system (CAA rules which apply to § 1.55).* Section 1.55 requires the manufacturer of replacement or modification parts to comply with § 1.15 (d) and thereby establish an inspection system. Persons manufacturing replacement or modification parts for sale shall establish within six months from the date of initial production of the parts and thereafter maintain a fabrication inspection system to assure that such parts are in conformity with the design data and safe for installation on type certificated products.

(a) *Inspection system standards.* The inspection system shall provide assurance for the following, where appropriate:

(1) That all incoming materials used in the finished part are as specified in the design data.

(2) That all incoming material is properly identified when physical and chemical properties cannot otherwise be readily and accurately determined.

(3) That all materials subject to damage and deterioration are suitably stored and adequately protected.

(4) That all processes affecting quality and safety of the finished product are accomplished in accordance with acceptable specifications.

(5) That parts in process are inspected for conformity with the design data at points in production where accurate determination can be made. Statistical quality control procedures may be employed where it is shown that a satisfactory level of quality will be maintained for the particular part involved.

(6) That current design drawings are readily available to manufacturing and inspection personnel, and used when necessary.

(7) That major changes to the basic design are adequately controlled and approved before being incorporated in the finished part.

(8) That rejected materials and components are segregated and identified in such a manner as to preclude their use in the finished part.

(9) That inspection records are maintained, identified with the completed part, where practicable, and retained in the manufacturer's file for a period of at least two years after the part has been completed.

(Sec. 205, 52 Stat. 984 as amended; 49 U. S. C. 425. Interprets or applies secs. 601, 603, 52 Stat. 1007, 1009 as amended; 49 U. S. C. 551, 553)

This supplement shall become effective February 25, 1957.

[SEAL] JAMES T. PYLE,
Administrator of Civil Aeronautics.

[F. R. Doc. 57-752; Filed, Jan. 31, 1957; 8:46 a. m.]

TITLE 22—FOREIGN RELATIONS

Chapter I—Department of State

[Dept. Reg. 108.309]

PART 40—DIPLOMATIC VISAS UNDER THE IMMIGRATION AND NATIONALITY ACT

MISCELLANEOUS AMENDMENTS

Part 40, Chapter I, Title 22 of the Code of Federal Regulations, is hereby amended in the following respects:

1. Paragraph (e) of § 40.1 *Definitions,* is amended to read as follows:

(e) "Equivalent of a diplomatic passport" means (1) a national passport, other than a specifically described diplomatic passport, which is issued by a foreign government to which the bearer owes allegiance and which indicates the career diplomatic or consular status of the bearer, the issuing government being one which does not issue diplomatic passports to its career diplomatic and consular officers, or (2) a national passport, other than a specifically described diplomatic passport, which is in the possession of a nonimmigrant who is an accredited official of a foreign government or a member of his immediate family, and who is within the purview of section 212 (d) (8) of the act, or (3) such other passport as may be acceptable to the Secretary of State in individual cases.

2. Section 40.7 *Application for diplomatic visa* is amended by the addition of the following paragraph at the end thereof:

(e) *Exemption from fingerprint requirement.* Every alien who is eligible to apply for and who receives a diplomatic visa on a diplomatic passport or on the equivalent of a diplomatic passport shall be exempt from the fingerprint requirement.

3. Paragraph (d) of § 40.10 *Procedure in issuing diplomatic visas* is revoked and paragraph (e) of § 40.10 is redesignated paragraph (d).

The regulations contained in this order shall become effective upon publication in the FEDERAL REGISTER. The provisions of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C. 1003) relative to notice of proposed rule making and delayed effective date are inapplicable to this order because the regulations contained therein involve foreign affairs functions of the United States.

(Sec. 104, 66 Stat. 174; 8 U. S. C. 1104)

Dated: January 25, 1957.

ROBERT F. CARTWRIGHT,
Acting Administrator, Bureau of Security and Consular Affairs, Department of State.

[F. R. Doc. 57-764; Filed, Jan. 31, 1957; 8:49 a. m.]

TITLE 26—INTERNAL REVENUE, 1954

Chapter I—Internal Revenue Service, Department of the Treasury

Subchapter E—Alcohol, Tobacco, and Other Excise Taxes

[T. D. 6224]

PART 250—LIQUORS AND ARTICLES FROM PUERTO RICO AND THE VIRGIN ISLANDS

PART 251—IMPORTATION OF DISTILLED SPIRITS, WINES AND BEER

RECORDS AND REPORTS

On September 28, 1956, a notice of proposed rule making with respect to amendments of 26 CFR Parts 250 and 251 was published in the FEDERAL REGISTER (21 F. R. 7452). The purposes of the proposed amendments as set forth in the notice are (a) to simplify recordkeeping and reporting requirements, and (b) to delete the detailed listing of various tax rates.

In accordance with the notice, interested parties were afforded an opportunity to submit written data, views, or arguments pertaining thereto. No written comments were received within the 30-day period prescribed. Accordingly, the amendments so published are hereby adopted.

This Treasury decision shall be effective on the first day of the first month which begins not less than 30 days after

the date of publication in the FEDERAL REGISTER.

(68A Stat. 917; U. S. C. 7805)

[SEAL] O. GORDON DELK,
Acting Commissioner of Internal Revenue.

RALPH KELLY,
Commissioner of Customs.

Approved: January 29, 1957.

W. RANDOLPH BURGESS,
Acting Secretary of the Treasury.

In order (a) to simplify recordkeeping and reporting requirements, and (b) to delete the detailed listing of various tax rates, 26 CFR Parts 250 and 251 are amended as follows:

PARAGRAPH 1. 26 CFR Part 250, "Liquors and Articles from Puerto Rico and the Virgin Islands," is amended as follows:

(A) Section 250.127 is amended to read:

§ 250.127 *Report of red strip stamps used.* The insular internal revenue agent will record and report the use of red strip stamps on taxpaid spirits bottled for sale to tourists in Puerto Rico as provided in § 250.146.

(B) Section 250.146, and the headnote thereto, is amended to read as follows:

§ 250.146 *Record and report of red strip stamps.* Insular internal revenue agents having custody of red strip stamps will keep a daily record, by denomination, of red strip stamps received, used, mutilated, unaccounted for, destroyed, and on hand at the beginning and end of the day. No form is prescribed for the daily records but such records shall be retained to support the monthly report. At the close of the month, or within 10 days thereafter, the insular internal revenue agent will prepare a report, in quadruplicate, of the strip stamps received and used during the month on Form 2260, properly modified. The agent will retain one copy and forward three copies to the treasurer; the treasurer will retain one copy, forward one copy to the United States Internal Revenue Service office, and one copy to the assistant regional commissioner.

(68A Stat. 602; 26 U. S. C. 5008)

(C) Subpart H is amended to read as follows:

SUBPART H—RECORDS AND REPORTS OF LIQUORS FROM PUERTO RICO

§ 250.163 *General requirements.* Except as provided in § 250.164, every person, other than a tourist, bringing liquors into the United States from Puerto Rico shall keep records and render reports of the physical receipt and disposition of such liquors in accordance with Part 194 ("Liquor Dealers") of this chapter: *Provided,* That regardless of who takes actual physical possession of the liquors at the time of their release from customs custody, the records and reports of the person actually responsible for such release shall reflect the transaction. Records and reports will not be required under this part with respect of liquors while in customs custody.

(68A Stat. 619, 681; 26 U. S. C. 5114, 5555)

§ 250.164 *Proprietors of taxpaid premises.* Transactions involving the bringing of liquors into the United States from Puerto Rico by proprietors of industrial alcohol plants or bonded warehouses, registered distilleries, fruit distilleries, and internal revenue bonded warehouses operating taxpaid premises, and proprietors of taxpaid bottling houses and rectifying plants shall be recorded and reported in accordance with the regulations governing the operations of each such premises.

(68A Stat. 619, 681; 26 U. S. C. 5114, 5555)

PROCUREMENT OF FORMS

§ 250.165 *Forms to be provided by users at own expense.* Forms 52A, 52B, and 338 shall be purchased by users from commercial printers and must be in the form prescribed: *Provided,* That, with the approval of the Director, Alcohol and Tobacco Tax Division, they may be modified to adapt their use to tabulating or other mechanical equipment.

(68A Stat. 619, 681; 26 U. S. C. 5114, 5555)

(D) The title of Subpart N is amended to read, "Records and reports of liquors from the Virgin Islands".

(E) Section 250.274, and the headnote thereto, is amended to read as follows:

§ 250.274 *General requirements.* Except as provided in § 250.275, every person, other than a tourist, bringing liquors into the United States from the Virgin Islands shall keep records and render reports of the physical receipt and disposition of such liquors in accordance with Part 194 ("Liquor Dealers") of this chapter: *Provided,* That regardless of who takes actual physical possession of the liquors at the time of their release from customs custody, the records and reports of the person actually responsible for such release shall reflect the transaction. Records and reports will not be required under this part with respect of liquors while in customs custody.

(68A Stat. 619; 26 U. S. C. 5114)

(F) Section 250.275 and the headnote thereto is amended to read as follows:

§ 250.275 *Proprietors of taxpaid premises.* Transactions involving the bringing of liquors into the United States from the Virgin Islands by proprietors of industrial alcohol plants or bonded warehouses, registered distilleries, fruit distilleries, and internal revenue bonded warehouses operating taxpaid premises, and proprietors of taxpaid bottling houses and rectifying plants shall be recorded and reported in accordance with the regulations governing the operations of each such premises.

(68A Stat. 618, 619, 681; 26 U. S. C. 5112, 5114, 5555)

(G) Section 250.276 is revoked.

(H) Section 250.277 is revoked.

(I) Section 250.278 is revoked.

(J) Section 250.279 is revoked.

(K) Section 250.280 is revoked.

(L) Section 250.281 and the undesignated centerhead immediately preceding that section are revoked.

(M) Section 250.282 is revoked.

(N) Section 250.283 is revoked.

(O) Section 250.284 is amended as follows:

(1) By striking from the first sentence the phrase "Form 52 F, Record 52, and".

(2) By striking from the first sentence the phrase: ": *Provided, further,* That where the form is printed in book form (including loose-leaf books), the instructions may be printed on the cover or the fly leaf of the book instead of on the individual form."

PAR. 2. 26 CFR Part 251, "Importation of Distilled Spirits, Wines, and Beer," is amended as follows:

(A) Section 251.40 is amended as follows:

(1) By striking from the first sentence the phrase "of $10.50 per" and inserting in lieu thereof the phrase "prescribed by law on each".

(2) By striking the last sentence.

(B) Section 251.41 is amended as follows:

(1) By striking from the first sentence the phrase "of $10.50 per wine gallon" and inserting in lieu thereof the phrase "prescribed by law on each wine gallon,".

(2) By striking the last sentence.

(C) Section 251.42 is amended as follows:

(1) By placing the phrase "including imitation, substandard, or artificial wine, and compounds sold as wine, having not in excess of 24 percent of alcohol by volume" in the first sentence within parenthesis.

(2) By striking from the first sentence the phrase "rates shown below, such taxes to be" and inserting in lieu thereof the phrase "rates prescribed by law; such tax to be".

(3) By inserting in the third sentence, which begins "Fractions of less", immediately after the phrase "converted to the next", the word "full".

(4) By striking paragraphs (a), (b), (c), (d), and (e).

(5) By striking the paragraph designation only from paragraph (f).

(D) Section 251.45 is amended as follows:

(1) By striking from the first sentence the phrase "an internal revenue tax of $9.00" and inserting in lieu thereof the phrase "the internal revenue tax prescribed by section 5051, I. R. C.,".

(2) By striking the second sentence, which begins "On and after".

(E) Subpart I is amended to read as follows:

SUBPART I—IMPORTER'S RECORDS AND REPORTS

RECORD AND REPORT OF RED STRIP STAMPS

§ 251.130 *Daily record, part I, Form 96.* Importers shall keep a daily record on part I of Form 96 of red strip stamps procured and used. A separate page in single copy is required for each denomination of stamps.

(68A Stat. 612, 619; 26 U. S. C. 5008, 5114)

§ 251.131 *Monthly report, parts II and III, Form 96.* At the close of the month, importers shall prepare parts II and III of Form 96, in triplicate, reporting on part II the red strip stamps procured and used during the month, and on part III

the stamps shipped abroad to importer's agents. On or before the 10th day of the succeeding month, one copy shall be forwarded to the assistant regional commissioner of the region in which the business of the importer is conducted, and one copy shall be forwarded to the collector of customs who approved the importer's requisitions. The remaining copy shall be retained for filing in accordance with § 251.136.

(68A Stat. 602; 26 U. S. C. 5008)

§ 251.132 *Separate record for each place of business.* Where an importer has more than one place of business, a separate record on part I of Form 96 shall be maintained on the premises of each place of business. A separate monthly report (parts II and III) shall also be rendered for each place of business. Where an agent procures stamps for several importers, the agent shall keep a separate record for each importer on part I of Form 96 of all stamps sent abroad or retained on his premises for the account of the importer. Separate monthly reports (parts II and III) shall be rendered by the agent in the name of each importer to the assistant regional commissioner of the region in which the stamps are procured.

(68A Stat. 602, 681; 26 U. S. C. 5008, 5555)

RECORD AND REPORT OF IMPORTED LIQUORS

§ 251.133 *General requirements.* Except as provided in § 251.134, every importer who imports distilled spirits, wines, or beer shall keep records and render reports of the physical receipt and disposition of such liquors in accordance with Part 194 ("Liquor Dealers") of this chapter: *Provided,* That regardless of who takes actual physical possession of the liquors at the time of their release from customs custody, the records and reports of the person actually responsible for such release shall reflect the transaction. Records and reports will not be required under this part with respect of liquors while in customs custody.

(68A Stat. 619, 681; 26 U. S. C. 5114, 5555)

§ 251.134 *Proprietors of taxpaid premises.* Importing operations conducted by proprietors of industrial alcohol plants or bonded warehouses, registered distilleries, fruit distilleries, and internal revenue bonded warehouses operating taxpaid premises, and proprietors of taxpaid bottling houses and rectifying plants shall be recorded and reported in accordance with the regulations governing the operations of each such premises.

(68A Stat. 619, 681; 26 U. S. C. 5114, 5555)

§ 251.135 *Forms to be provided by users at own expense.* Forms 52A, 52B, and 338 shall be provided by importers at their own expense, but must be in the form prescribed: *Provided,* That with the approval of the Director, Alcohol and Tobacco Tax Division, they may be modified to adapt their use to tabulating or other mechanical equipment.

(68A Stat. 618, 619, 681; 26 U. S. C. 5112, 5114, 5555)

FILING AND RETENTION OF RECORDS AND REPORTS

§ 251.136 *Filing.* If the importer maintains looseleaf records of receipt or disposition, one legible copy of each such record shall be marked or stamped "Government File Copy", and shall be filed not later than the close of the business day next succeeding that on which the transaction occurred. All records required by this part and legible copies of all reports submitted to the assistant regional commissioner shall be filed separately, chronologically, and in numerical sequence within each date, at the importer's place of business to which they relate: *Provided,* That upon application, the assistant regional commissioner may authorize the files, or any individual file, to be maintained at other premises under control of the importer, if he finds that such maintenance will not delay the timely filing of any document, or cause undue inconvenience to internal revenue officers desiring to examine such files. Supporting documents, such as consignors' invoices, delivery receipts, bills of lading, etc., or exact copies thereof, may be filed in accordance with the importer's customary practice. Documents supporting records of disposition shall have noted thereon the serial numbers of the records of disposition to which they refer.

(68A Stat. 619, 681; 26 U. S. C. 5114, 5555)

§ 251.137 *Retention.* All records prescribed by this part, documents or copies of documents supporting such records, and file copies of reports submitted to the assistant regional commissioner shall be preserved for a period of not less than two years, and during such period shall be available, during business hours, for inspection and the taking of abstracts therefrom by internal revenue officers. Any records, or copies thereof, containing any of the information required by this part to be prepared, wherever kept, shall also be made available for such inspection and the taking of abstracts therefrom.

(68A Stat. 619, 681; 26 U. S. C. 5114, 5555)

[F. R. Doc. 57-767; Filed, Jan. 31, 1957; 8:50 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter VII—Department of the Air Force

Subchapter A—Aid of Civil Authorities and Public Relations

PART 804—RELATIONS WITH AGENCIES OF PUBLIC CONTRACT

Subchapter B—Aircraft

PART 824—AIR FORCE PARTICIPATION IN CEREMONIES, CELEBRATIONS, AND EXHIBITIONS

AIR FORCE PARTICIPATION IN PUBLIC EVENTS

1. In Subchapter B, Part 824, containing §§ 824.1 to 824.10 is rescinded.

2. In Part 804, §§ 804.101 to 804.107 are added as follows:

Sec.
804.101 Purpose.
804.102 Policy.
804.103 Use of personnel.
804.104 Equipment.
804.105 Use of aircraft.
804.106 Specifications for insurance.
804.107 Exceptions.

AUTHORITY: §§ 804.101 to 804.107 issued under R. S. 161, sec. 202, 61 Stat. 500, as amended; 5 U. S. C. 22, 171a.

DERIVATION: AFR 190-5, January 11, 1957.

§ 804.101 *Purpose.* Sections 804.101 to 804.107 govern Air Force participation in public exhibitions, demonstrations, ceremonies, and other similar events.

§ 804.102 *Policy.* (a) Participation in public events is considered essential, to satisfy public interest, keep the public informed on Air Force preparedness, stimulate patriotic spirit, aid community relations, and otherwise further public understanding of the Air Force.

(b) In general, the cost of Air Force participation in public events will not be borne by the USAF, except the pay of military personnel and small incidental expenses for activities of a local nature in areas adjacent to a base or other unit. Transportation and operating costs of equipment used, costs of transportation of personnel, housing and standard per diem allowances, and all other costs, when the activity is beyond the post, camp, base or station area, will be borne by the civil organization sponsoring the activity unless an exception is made by the Secretary of Defense.

(c) No provision of §§ 804.101 to 804.107 authorizes the release, compromise, or downgrading of classified equipment or performance data. Upon the occasion of an "Open House", commanders will insure the safeguarding of classified equipment and/or areas containing such equipment.

(d) Participation must not directly or indirectly benefit or appear to benefit any private individual, commercial venture, sect, or political or fraternal group.

(e) From such participation no monetary gain shall accrue to any individual or organization, except that which is to be used in the interest of the general public or a bona fide philanthropy.

(f) Except as otherwise indicated in §§ 804.101 to 804.107, the Secretary of Defense retains the authority to approve:

(1) All public participation in the Washington, D. C. area.

(2) All events of national or international significance.

(3) All events of more than local significance involving two or more of the Services.

(4) Parachute jumps and equipment drops, except as regularly scheduled training programs on Armed Forces installations.

§ 804.103 *Use of personnel.* Authority for utilization of personnel is delegated to all major commands and may be further delegated. Air Force personnel may participate in parades, demonstrations, public rallies and exhibitions, and the like:

(a) When such participation is an appropriate part of official occasions attended by senior officers of the government in the performance of official duties.

(b) When these events are sponsored by bona fide veterans' organizations.

(c) In support of fund drives for officially recognized Armed Forces relief agencies or charitable organizations.

(d) In support of athletic contests involving one or more Armed Forces teams.

(e) In connection with recruiting activities.

(f) The use of USAF Bands is governed by §§ 808.1 to 808.4 of this subchapter.

§ 804.104 *Equipment.* Authority for the presentation of USAF equipment, displays, and exhibits, other than operable aircraft at public occasions, is delegated to major air commands.

(a) In events of local nature, involving community relations, recruiting, and public information, public liability and property damage insurance is not required.

(b) For any other occasion, the sponsor will be required to provide an adequate public liability and property damage insurance applicable to such Air Force equipment as may be on display.

§ 804.105 *Use of aircraft.* Aircraft participation is considered to be the in-flight demonstration or static display of one or more aircraft in connection with a public event. Insofar as practicable, flying time devoted to aerial demonstrations will be utilized for flying proficiency or training purposes. Types of participation and their requirements are defined as follows:

(a) *Class I (flyover).* Aircraft depart a USAF installation and return without landing at the site of the event.

(1) Approving authority for Class I participation on Armed Forces Day, Memorial Day, Independence Day, and Veterans Day only is delegated to major commanders and may be further delegated, if desired.

(2) Requirements: No aerobatics or competitive speed runs will be flown. No public liability and property damage insurance is required. Sponsor is not required to defray fuel or per diem expenses.

(3) Authorized occasions for this class are:

(i) Civic sponsored local celebrations of national holidays, specifically Armed Forces Day, Memorial Day, Independence Day, and Veterans Day.

(ii) Memorial services for deceased nationally recognized military or government figures.

(iii) Celebrations or receptions of prominent representatives of foreign governments.

(iv) National conventions of bona fide veterans' organizations.

(v) Occasions which are primarily designed to encourage the advancement of aviation and are of more than local interest and importance.

(b) *Class II (major air show).* Aircraft depart home bases as necessary to arrive before the event, participate as practicable, refuel as necessary, and are based at other than home station for duration of the event.

(1) Approving authority is retained by the Department of Defense. The civilian requestor for such participation may be advised to direct his request to the Department of Defense, Office of Public Information and Special Activities.

(2) Requirements: Transportation and operating costs of equipment used, costs of transportation of personnel, housing, and standard per diem allowances, and all other costs will be borne by the sponsor of the occasion unless an exception is made by the Secretary of Defense.

(3) Authorized occasions for this class are those which are primarily designed to encourage or promote the advancement of aviation and are of national or international significance.

(c) *Class III (open house).* Aircraft are demonstrated as practicable for public audiences on a government-owned or leased installation. Demonstration consists of aircraft under the command and jurisdiction of the headquarters approving the open house. (The phrase "government-owned or leased installations" is considered to include Air Force units operating from a municipal or county airport.)

(1) Approving authority is delegated to major commands and may be further delegated if desired.

(2) Requirements: Open house may be utilized at the discretion of approving authority to the best interests of the USAF.

(3) Authorized or suitable occasions are those that the approving authority determines to be in the interest of the Air Force.

(4) Headquarters USAF will monitor open house activities only on occasions of national or international significance.

(d) *Class IV (minor show).* Aircraft depart home station, arrive at destination before the event, remain on static display, and depart after the event to return to home station.

(1) Approving authority is delegated to major commands for participation on Armed Forces Day, Memorial Day, Independence Day, and Veterans Day only.

(2) Requirements: Sponsor must defray the expenses of suitable hotel accommodations, meals, and transportation of all personnel involved. Sponsor must provide public liability and property damage insurance as prescribed in § 804.106, to safeguard the U. S. Government from any claims arising as a result of the participation.

(3) Suitable occasions for Class IV participation are those primarily designed to encourage or promote the advancement of aviation, such as airport dedications, or to support recruiting or major programs of other Federal agencies, including civic sponsored local celebrations of Armed Forces Day, Memorial Day, Independence Day, and Veterans Day.

§ 804.106 *Specifications for insurance.*—(a) *Participation not requiring insurance.* (1) Demonstration flights conducted at installations owned or leased by the United States Government.

(2) Flight of aircraft to and from place of exhibition.

(3) Class I demonstrations (flyover).

(4) Class III demonstrations (open house).

(b) *Participation requiring insurance.* (1) Class II (major shows).

(2) Class IV (minor shows).

(c) *Kind of insurance required.*—(1) *Type.* A public liability insurance policy and, when circumstances require, property damage insurance will be considered adequate coverage.

(2) *Amount.* Public liability insurance to the extent of $50,000/$500,000 for personal injury or death, $250,000 for property damage is considered adequate coverage for normal participation. Where grandstands or other mass gathering places are to be utilized for spectators at an air show, the amounts should be increased to $100,000/$2,500,000 for personal injury or death. Should any air show be performed near an area of exceptionally high real estate values, property damage insurance should be increased proportionately.

(d) *Extent of coverage.* The insurance policy must state clearly the intent to cover accidents caused by or resulting from the maintenance, use, or operation of aircraft or equipment material, owned by the United States Government and officers or employees of the United States Government acting within the scope of their employment. The policy should name the United States Government as co-insured with the sponsor and contain essentially the same elements as the following indorsement:

SAMPLE INDORSEMENT

(1) The coverage provided by this policy shall extend to any loss from liability imposed by law for any and all bodily injuries (or death resulting therefrom, including loss of services) to persons, or damage to, or destruction of property of every description (including loss of use thereof) caused by, arising out of, or resulting from the participation, operation, use, maintenance, or presence in or at the ----------, of any aircraft, equipment, or materiel of any description owned by the United States Government, or caused by, arising out of, or resulting from any action or nonaction of the United States Government, its officers and employees acting within the scope of their office or employment.

(2) The coverage provided by this policy shall extend continuously from the first moment of arrival of the first aircraft, or piece of equipment or materiel of any description owned by the United States Government, at any place or places reasonably or necessarily incident to participation in ---------- ---------- until the last moment of departure from said place or places of the last of said aircraft, equipment or materiel, and shall extend continuously during the presence at said place or places of the United States Government, its officers or employees, acting within the scope of their employment.

(3) The coverage provided by this policy shall not extend to any liability for loss or account of bodily injury (or death therefrom, including loss of services) of any officer or employee of the United States Government acting within the scope of his office or employment or to any liability for loss on account of any damage to or destruction of any aircraft, equipment, or materiel of any description owned by the United States Government.

(4) It is understood and agreed that the immunity to suit the United States Government, its officers or employees acting within the scope of their office or employment, shall not constitute a bar to recovery nor be pleaded as such in defense of any suit against the United States Government, its officers, or employees, or by the underwriters when defending such suits in their behalf.

(e) *Submission of policy.* The insurance policy must be submitted through channels to Headquarters USAF, Attention, SAFIS, at least 35 days prior to date of the event.

§ 804.107 *Exceptions.* In unusual circumstances exceptions to the rules in §§ 804.101 to 804.107 may be made by Headquarters USAF. Requests for such exceptions will be submitted through channels to the Director of Information Services, Office of the Secretary of the Air Force, Washington 25, D. C.

[SEAL] E. E. TORO,
Colonel, U. S. Air Force,
Air Adjutant General.

[F. R. Doc. 57-744; Filed, Jan. 31, 1957; 8:45 a. m.]

Subchapter F—Reserve Forces

PART 861—OFFICERS' RESERVE

PART 866—SEPARATION OF PERSONNEL FROM U. S. AIR FORCE RESERVE

SEPARATION OF OFFICERS OF THE AIR FORCE RESERVE

1. In Part 861, §§ 861.851 to 861.858 (Reappointment of U. S. Air Force Reserve Officers) are revoked.

2. In Subchapter F, Part 866—Separation of Personnel from U. S. Air Force Reserve, containing §§ 866.1 to 866.3, is revoked.

3. In Part 861, new §§ 861.851 to 861.872 are added as follows:

Sec.
861.851 General.
861.852 Termination or vacation of appointment.
861.853 Reasons for discharge.
861.854 Completion of obligated service.
861.855 Age.
861.856 General officers who cease to occupy positions for which appointed.
861.857 Officers who cease to occupy position as Adjutant General or Assistant Adjutant General.
861.858 Second lieutenants not qualified for promotion.
861.859 Removal from recommended list for promotion.
861.860 Failure of selection for promotion.
861.861 Elimination for length of service.
861.862 Excessive numbers of officers in active status in any grade.
861.863 Failure to participate in reserve training.
861.864 Failure to reply to official correspondence or inability to locate.
861.865 Elimination from inactive status list.
861.866 Minor children.
861.867 Physical disability.
861.868 Entrance or service in an Armed Force of a foreign country.
861.869 Accepting civil employment with foreign governments.
861.870 Loss of nationality.
861.871 Chaplains.
861.872 Disposition boards.

AUTHORITY: §§ 861.851 to 861.872 issued under R. S. 161, sec. 202, 61 Stat. 500, as amended; 5 U. S. C. 22, 171a. Interpret or apply sec. 8062, 8209, 8781, 8782, 8784, 8786, 9021, 70A Stat. 493, 500, 542, 543, 544, 558; 10 U. S. C. 8062, 8209, 8781, 8782, 8784, 8786, 9021.

DERIVATION: AFR 45-41, May 31, 1956.

§ 861.851 *General.*—(a) *To whom.* Applicable §§ 861.851 to 861.871 apply to all Air Force Reserve commissioned officer members not serving on extended active duty as officers, and all Air Force Reserve warrant officers not serving on extended active duty as warrant officers.

(b) *Policy.* Membership in the Air Force Reserve is not an inherent right of any individual. It is a privilege and confers upon an individual an obligation to serve in the active military service in the event of mobilization or emergency or at such other times as the national security may require. An officer who is not qualified or is unable to properly fulfill his obligation to serve may be separated from the service. An officer whose separation is effected for any of the reasons outlined in §§ 861.851 to 861.872 ceases to be a Reserve officer of the Air Force. Separation for these reasons will also operate to terminate all temporary appointments which he holds in the United States Air Force without component. Separation effected for any of the reasons outlined in §§ 861.852 to 861.870 will be honorable and an Honorable Discharge Certificate (DD Form 256AF) will be issued.

(c) *Definitions*—(1) *Officer.* Unless otherwise indicated, a commissioned or warrant officer.

(2) *Probationary officer.* A commissioned officer who has not completed 3 years of Federal commissioned service in any of the Armed Forces or a warrant officer who has not completed 3 years of Federal service in a warrant officer status since acceptance of initial appointment as a Reserve warrant officer of the Air Force.

(3) *Nonprobationary officer.* A commissioned officer who has completed 3 or more years of Federal commissioned service in any of the Armed Forces or a warrant officer who has completed 3 or more years of Federal service in a warrant officer status since acceptance of initial appointment as a Reserve warrant officer of the Air Force.

(4) *Reserve of the Air Force.* The common Federal status possessed by members of the Air Force Reserve and the Air National Guard of the United States.

(5) *Reserve components.* The Air Force Reserve and the Air National Guard of the United States.

(6) *Extended active duty.* Any tour of active duty, other than active duty for training, performed in the Federal service by a member of a Reserve component. Extended active duty may be further defined as the only tour in which strength accountability changes from the Reserve to the active establishment.

(7) *Active military service.* A general term applied to all active duty with the active establishment without regard to duration or purpose.

(8) *Active status.* The status of all Reservists except those on the Inactive Status List and those in the Retired Reserve.

(9) *Discharge.* Termination by administrative action of all appointments in the United States Air Force.

(10) *Separation from the service.* A general term including discharge, vacation or termination of appointment, or drop from the rolls of the Air Force. The terms "separation from the service" and "separation" as used in §§ 861.851 to 861.872 are synonymous.

(11) *Air Reserve Records Center.* That part of Headquarters, Continental Air Command, located at 3800 York Street, Denver 5, Colorado.

(12) *Grade.* Unless otherwise specified, the officer's permanent grade as a Reserve officer of the Air Force.

(13) *Promotion or promoted.* Unless otherwise specified, refers to the appointment of an officer in the next higher permanent grade as a Reserve officer of the Air Force.

(14) *Promotion service.* Means:

(i) Service in an active status in current grade as a Reserve officer of the Air Force.

(ii) All service in an active status after June 25, 1950, and before July 1, 1955.

(*a*) During which an officer was eligible for permanent promotion on the basis of service in a higher temporary grade, or

(*b*) In an equivalent or higher permanent grade in the same or another service, including service in a federally recognized commissioned status in the Army and Air National Guard.

(iii) No period of service authorized under subdivision (ii) of this subparagraph may be counted more than once for promotion purposes.

(15) *Recommended list of promotion.* A list of those officers recommended by selection boards for promotion to the next higher grades.

(16) *Total years of service.* All periods of time that an officer has:

(i) Held an appointment as a commissioned officer in any of the Armed Forces of the United States, without component or in any component thereof;

(ii) Held an appointment as a commissioned officer in the federally recognized National Guard before June 15, 1933, or held a federally recognized commissioned status therein;

(iii) Has been credited with under section 201, Reserve Officer Personnel Act of 1954, as amended (68 Stat. 1150; 50 U. S. C. Supp. III, 1191). No period of time may be credited more than once in the computation of total years of service.

(d) *Retention of officers to qualify for retirement.* (1) An officer who on the date established for his separation for any of the reasons outlined in §§ 861.857 to 861.862:

(i) Has been or is entitled to be credited with 18 or more but less than 19 years of satisfactory Federal service for retired pay purposes under Title III, Army and Air Force Vitalization and Retirement Equalization Act of 1948, as

amended, section 8966 of Title 10, United States Code will not, without his consent, be discharged before the date on which he is credited with 20 years of such satisfactory Federal service or the third anniversary of his establshed date of discharge, whichever is earlier.

(ii) Has been or is entitled to be credited with 19 or more but less than 20 years of satisfactory Federal service for retired pay purposes as outlined in subdivision (i) of this subparagraph will not, without his consent, be discharged before the date on which he is credited with 20 years of such satisfactory Federal service or the second anniversary of his established date of discharge, whichever is earlier.

(2) The discharge of a warrant officer who on November 1, 1954, was a male warrant officer of a Reserve component of the Armed Forces and who, upon attaining the age of 62, has completed less than 20 years of satisfactory Federal service for retired pay purposes under Title III, Army and Air Force Vitalization and Retirement Equalization Act of 1948, as amended, section 8966 of Title 10, United States Code, may be deferred by the Secretary of the Air Force until he completes 20 years of such satisfactory Federal service, but not later than 60 days after the date on which he attains the age of 64.

(3) The discharge of a warrant officer who on November 1, 1954, was a female warrant officer of a Reserve component of the Armed Forces and who upon attaining the age of 55 has completed less than 20 years of satisfactory Federal service for retired pay purposes under Title III, Army and Air Force Vitalization and Retirement Equalization Act of 1948, as amended, section 8966 of Title 10, United States Code, may be deferred by the Secretary of the Air Force until she completes 20 years of such satisfactory Federal service, but not later than 60 days after the date on which she attains the age of 60.

(e) *Service obligations.* Current laws under certain conditions impose upon individuals a liability for training or service in the Armed Forces of the United States or, as used in §§ 861.851 to 861.872, a "service obligation." Service obligations apply only to male personnel. Service obligations under current laws are described in §§ 864.31 to 864.39. Officers who have a service obligation under section 651 of Title 10, United States Code, or under any other provision of law, are not relieved of that obligation by separation from their appointments as Reserve officers of the Air Force to enter some other military status such as enlistment, induction, or appointment in the same or another Armed Force. They will be relieved of their service obligations if their separation is the result of punitive action, is under other than honorable conditions, or is effected for cause. Additionally current law provides for the special registration, classification, and induction of persons qualified in medical, dental, and veterinarian categories, who have not reached the age of 50 at the time of registration, in the following order or priority.

(1) *Priority I.* Those persons who participated as students in the Army specialized training program or similar programs administered by the Navy, and those persons who were deferred from service during World War II to pursue a course of instruction leading to education in one of the above categories, who have had less than 90 days of active duty in the Army, the Air Force, the Navy, the Marine Corps, the Coast Guard, or the Public Health Service (exclusive of time spent in postgraduate training).

(2) *Priority II.* Those persons who participated as students in the Army specialized training program or similar programs administered by the Navy, and those persons who were deferred from service during World War II to pursue a course of instruction leading to education in one of the above categories, who have had 90 days or more but less than 17 months of active duty in the Army, the Air Force, the Navy, the Marine Corps, the Coast Guard, or the Public Health Service (exclusive of time spent in postgraduate training).

(3) *Priority III.* Those persons who did not have active service in the Army, the Air Force, the Navy, the Marine Corps, the Coast Guard, or the Public Health Service after September 16, 1940.

(4) *Priority IV.* Those persons not included in priorities I and II who have had active service in the Army, the Air Force, the Navy, the Marine Corps, the Coast Guard, or the Public Health Service after September 16, 1940.

§ 861.852 *Termination or vacation of appointment*—(a) *Policy.* With a few exceptions, no person may be a member of more than one Reserve component at the same time under existing law. Additionally, other conditions may exist or arise, such as when an officer voluntarily accepts or enters into an incompatible status, which will operate to terminate or vacate his appointment as a Reserve of the Air Force. The reasons outlined in this section or similar reasons will operate to terminate or vacate the officer's appointment as a Reserve of the Air Force.

(b) *Automatic termination of appointment.* (1) The appointment of a Reserve officer who has declined to accept an indefinite term appointment, or who failed to respond to a tender of an indefinite appointment, will automatically terminate on the expiration date of his appointment unless sooner terminated under applicable directives.

(2) The death of an officer will be reported. All military personnel should report to the nearest Air Force authority the death of any officer not serving on extended active duty which may come to their attention.

(c) *Termination of appointment—incompatible status.* (1) the appointment of any commissioned officer as a Reserve of the Air Force will be terminated when he enlists or accepts appointment as a warrant officer for service in the Air Force Reserve.

(2) The appointment of any commissioned officer as a Reserve of the Air Force will be terminated when he enlists or accepts appointment as a warrant officer for service in the Air National Guard of the United States.

(3) The appointment of any warrant officer as a Reserve of the Air Force will be terminated when he enlists for service in the Air Force Reserve or the Air National Guard of the United States.

(4) The appointment of any officer as a Reserve of the Air Force will be terminated when he is inducted, or enlisted, or accepts appointment, in the United States Army, Navy, Marine Corps, Coast Guard, Public Health Service, or Coast and Geodetic Survey, or in any component thereof, or when he accepts appointment for entrance into any of the service academies.

(i) An officer, except an officer of the Retired Reserve, who is not on orders to report for extended active duty or active duty for training, may apply for appointment as a commissioned or warrant officer or for enlistment in another service or any component thereof without jeopardizing his current status provided that a conditional release from his status as a Reserve officer of the Air Force is obtained. Upon approval of a request for conditional release, the Commander, Continental Air Command, will advise the officer in writing that appropriate action will be taken to announce the termination of his appointments in the United States Air Force upon receipt of documentary evidence from the gaining service of the date the officer enlisted or accepted appointment in the other service or in any component thereof.

(ii) Upon receipt of documentary evidence from the gaining service that an officer has been inducted, has enlisted, or accepted appointment in any of the services outlined in subparagraph (4) of this paragraph or in any component thereof, action will be taken to announce termination of the officer's appointments in the United States Air Force effective as of the date immediately preceding date of induction, enlistment, or acceptance of appointment in gaining service. If the officer has unfulfilled service obligations the letter of notification will also contain a statement that the records of the officer show, that as of the date his appointments in the United States Air Force were terminated, he had completed (years, months, and days) service toward fulfillment of his service obligations as outlined in § 861.851 (e). It will also contain a statement that termination of his appointments in the United States Air Force under this section does not constitute fulfillment of his service obligations. A copy of the letter of notification with a copy of the orders announcing the officer's separation will be forwarded to the gaining service.

(d) *Vacation of appointment.* (1) Acceptance of an appointment as a commissioned officer in the Regular Air Force or of an appointment in a different Reserve commissioned grade automatically vacates any appointment currently held as a Reserve commissioned officer of the Air Force.

(2) Acceptance of an appointment as a warrant officer in the Regular Air Force or of an appointment in a dif-

ferent Reserve warrant officer grade automatically vacates any appointment currently held as a Reserve warrant officer of the Air Force.

(3) Acceptance of an appointment as a commissioned officer in the Regular Air Force or of an appointment as a Reserve commissioned officer of the Air Force automatically vacates any appointment currently held as a Reserve warrant officer of the Air Force.

(4) Officers of the Air Force Reserve who become federally recognized officers of the Air National Guard in the same grade in which they are appointed as Reserve officers of the Air Force cease to be members of the Air Force Reserve but they are not separated from their appointments as Reserve officers of the Air Force. Officers of the Air Force Reserve who are found qualified for Federal recognition in the Air National Guard in a grade other than the grade in which they are currently appointed as Reserve officers of the Air Force upon acceptance of new appointments as Reserve officers of the Air Force and extension of Federal recognition in the latter grade, automatically vacate their prior appointments as Reserve officers of the Air Force and also cease to be members of the Air Force Reserve.

§ 861.853 *Reasons for discharge.* Any officer, including an officer who has a service obligation as outlined in § 861.851 (e) unless otherwise indicated, whose retention in the Air Force Reserve becomes incompatible or inconsistent with the best interest of the Air Force will be discharged. Additionally, current legislation provides that officers will be mandatorily discharged from the service when certain conditions as outlined therein are met. Also, other conditions may exist or arise which will require that they be discharged from the service. The reasons outlined in §§ 861.853 to 861.871, or similar reasons, will warrant consideration for discharge.

§ 861.854 *Completion of obligated service.* Officers with Reserve service obligations will be discharged upon completion of their obligated periods of service as outlined in § 861.851 (e) provided that:

(a) They are ineligible for transfer to the Retired Reserve or they are eligible but fail to apply.

(b) They are not qualified for assignment within another training category of the Air Force Reserve as outlined in §§ 861.1 to 861.14 or they are qualified but fail to request such assignment.

(c) They do not possess special qualification which would warrant their retention in the Air Force Reserve and placement in or retention on the Inactive Status List as prescribed in §§ 861.1 to 861.14.

§ 861.855 *Age.* Except as otherwise indicated in paragraph (c) of this section, officers will be discharged as outlined in this section on the last day of the month in which they attain ages for grades indicated, provided that they are ineligible for transfer to the Retired Reserve or they are eligible but fail to apply.

(a) *Male commissioned officers.*

	Age
(1) Brigadier general and below	60
(2) Major general	62

(b) *Female commissioned officers.*

	Age
(1) WAF	60
(2) Nurses and Women's Medical Specialists (Effective July 1, 1960):	
(i) Captain and below (30 days after the last day of the month in which she attains age)	50
(ii) Major and above (30 days after the last day of the month in which she attains age)	55

(c) *Warrant Officers (except as indicated in § 861.851 (d) (2) and (3)).*

	Age
(1) Male (60 days after attaining)	62
(2) Female (60 days after attaining)	55

§ 861.856 *General officers who cease to occupy positions for which appointed.* An officer who was appointed to the grade of major general or brigadier general to fill a vacancy as outlined in section 517 (a), Reserve Officer Personnel Act, (68 Stat. 1177; 50 U. S. C. Supp. III 1347), or any other provision of law, who ceases to occupy that position, will within 30 days thereafter, be discharged provided that:

(a) He is not assigned to fill a comparable position of the same or higher grade, as determined by the Secretary of the Air Force.

(b) He is ineligible for transfer to the Retired Reserve or he is eligible but fails to apply.

(c) He is ineligible for transfer to the Inactive Status List or he is eligible but fails to elect such transfer.

An officer in this category upon his application, if qualified, will be appointed as a Reserve officer in the grade held by him as a Reserve officer before his appointment in a general officer grade, and be credited with the amount of promotion service in the grade in which appointed equal to the amount of promotion service with which he has been credited in that grade and in any higher grade.

§ 861.857 *Officers who cease to occupy position as Adjutant General or Assistant Adjutant General.* An officer who was federally recognized in the Air National Guard of a State or Territory or the District of Columbia solely by reason of his appointment as an Adjutant General or Assistant Adjutant General, whose Federal recognition is withdrawn because he ceases to occupy that position, becomes a member of the Air Force Reserve. He will be discharged within 30 days after the date on which he ceases to occupy the position of Adjutant General or Assistant Adjutant General provided that he is ineligible for transfer to the Retired Reserve or he is eligible but fails to apply. An officer in this category upon his application, if qualified, will be appointed as a Reserve officer in the grade held by him as a Reserve officer immediately before his appointment as an Adjutant General or an Assistant Adjutant General and will be credited with the amount of promotion service in the grade in which appointed equal to the amount of promotion service with which he has been credited in that grade and in any higher grade.

§ 861.858 *Second lieutenants not qualified for promotion.* (a) Subject to the limitations contained in paragraph (d) (1) of § 861.851, each officer of the Air Force Reserve in the grade of second lieutenant who completes 3 years of promotion service in grade and is found not qualified for promotion will be discharged within 90 days after he completes 3 years of promotion service in the grade of second lieutenant, provided that he has no unfulfilled service obligations as outlined in § 861.851 (e).

(b) An officer of the Air National Guard of the United States in the grade of second lieutenant whose Federal recognition is withdrawn because he is not appointed in or promoted to the grade of first lieutenant by the Governor or other appropriate authority of a State, a Territory, or the District of Columbia, becomes a member of the Air Force Reserve and the provisions of paragraph (a) of this section apply.

§ 861.859 *Removal from recommended list for promotion*—(a) *Commissioned officers.* An officer in the grade of first lieutenant, captain, or major who is recommended by a selection board for promotion but is not promoted because the President declines to appoint him in the next higher grade will be considered for promotion by the next appropriate selection board. If he is not recommended for promotion by the next selection board or if he is recommended but the President again declines to appoint him in the next higher grade, he will be considered to have twice failed of selection for promotion. Subject to the limitations contained in paragraph (d) (1) of § 861.851, he will be discharged 1 year and 90 days after the date on which he would have been promoted if the President had not declined to appoint him in the higher grade for the first time, provided that—

(1) He is ineligible for transfer to the Retired Reserve or he is eligible but fails to apply.

(2) He has no unfulfilled service obligations as outlined in § 861.851 (e).

(b) *Warrant officers.* A warrant officer who is recommended for promotion by a selection board but is not promoted because his name is removed from the list by the Secretary of the Air Force will be considered for promotion by the next ensuing selection board. A warrant officer who is not recommended for promotion by the next selection board or who is recommended but his name is again removed from the list by the Secretary of the Air Force will be considered to have twice failed of selection for promotion. Subject to the limitations contained in paragraph (d) (1) of § 861.851, he will be discharged 60 days after the date of his second failure of promotion provided that—

(1) He is eligible for transfer to the Retired Reserve or he is eligible but fails to apply.

(2) He has no unfulfilled service obligations as outlined in § 861.851 (e).

§ 861.860 *Failure of selection for promotion*—(a) *Commissioned officers.* A Reserve officer in the grade of first lieutenant, a Reserve officer in the grade of captain except female officers designated as nurses or women medical specialists, and a Reserve officer in the grade of major except female officers designated as nurses and women medical specialists or appointed a WAF, who is considered for promotion by a selection board for the first time and is not recommended for promotion to the next higher grade or who for the first time is examined and found not qualified for Federal recognition in the next higher grade becomes a "Deferred Officer." Subject to the limitations contained in paragraph (d) (1) of § 861.851, a deferred officer will be discharged under the following conditions:

(1) A member of the Air Force Reserve who is again considered for promotion by a selection board and is not recommended for promotion to the next higher grade will be discharged 1 year and 90 days after the date on which he would have been promoted if he had been recommended for promotion by the first selection board which considered him, provided that:

(i) He is ineligible for transfer to the Retired Reserve or he is eligible but fails to apply.

(ii) He has no unfulfilled service obligations as outlined in § 861.851 (e).

(2) A member of the Air National Guard of the United States who is a deferred officer by reason of having been considered for promotion by a selection board for the first time and not recommended for promotion to the next higher grade, whose Federal recognition is withdrawn because he is again considered for promotion by a selection board and not recommended for promotion to the next higher grade, becomes a member of the Air Force Reserve and the provisions of subparagraph (1) of this paragraph will apply.

(3) A member of the Air National Guard of the United States who is a deferred officer by reason of having been for the first time examined and found not qualified for Federal recognition in the next higher grade, whose Federal recognition is withdrawn because he is subsequently considered for promotion by a selection board and not recommended for promotion to the next higher grade, becomes a member of the Air Force Reserve. He will be discharged within 90 days after the date upon which the report of the selection board is approved by the Secretary of the Air Force, provided that:

(i) He is ineligible for transfer to the Retired Reserve or he is eligible but fails to apply.

(ii) He has no unfulfilled service obligations as outlined in § 861.851 (e).

(4) A member of the Air National Guard of the United States who is a deferred officer by reason of having been considered for promotion by a selection board for the first time and not recommended for promotion to the next higher grade, whose Federal recognition is withdrawn because he is subsequently examined and found not qualified for Federal recognition in the next higher grade, becomes a member of the Air Force Reserve. He will be discharged within 90 days after the date upon which the report of the Federal recognition board is approved by the Secretary of the Air Force, provided that:

(i) He is ineligible for transfer to the Retired Reserve or he is eligible but fails to apply.

(ii) He has no unfulfilled service obligations as outlined in § 861.851 (e).

(5) A member of the Air National Guard of the United States who is a deferred officer by reason of having been for the first time examined and found not qualified for Federal recognition in the next higher grade, whose Federal recognition is withdrawn because he is again examined and found not qualified for Federal recognition in the next higher grade, becomes a member of the Air Force Reserve and the provisions of subparagraph (4) of this paragraph will apply.

(b) *Warrant officers.* A warrant officer member of the Air Force Reserve who is considered for promotion by a selection board for the first time and is not recommended for promotion to the next higher grade becomes a "Deferred Warrant Officer." Subject to the limitations contained in paragraph (d) (1) of § 861.851, a deferred warrant officer who is again considered for promotion by a selection board and is not recommended for promotion to the next higher grade will be discharged 60 days after the date of his second failure of promotion, provided that:

(1) He is ineligible for transfer to the Retired Reserve or he is eligible but fails to apply.

(2) He has no unfulfilled service obligations as outlined in § 861.851 (e).

§ 861.861 *Elimination for length of service.* Subject to the limitations contained in paragraph (d) (1) of § 861.851, each officer in an active status who completes the total years of service and/or service in grade prescribed by law for his elimination will be discharged as follows:

(a) Effective July 1, 1960, each officer in an active status in the following grades will be discharged 30 days after the date upon which he completes the following total years of service or on the fifth anniversary of the date of his appointment in the grade in which serving, whichever is later, provided that he is ineligible for transfer to the Retired Reserve or he is eligible but fails to apply:

Grade	Total years of service	Years in grade
Major general	35	5 (major general).
Brigadier general on recommended list for promotion to general).	35	5 (from date of promotion to major general).
Brigadier general not on recommended list for promotion.	30	5 (brigadier general).
Colonel on recommended list for promotion to brigadier general).	30	5 (from date of promotion to brigadier general).
Colonel not on recommended list for promotion.	30	5 (colonel).
Lieutenant colonel on recommended list for promotion to colonel.	30	5 (from date of promotion to colonel).

An officer in the grade of major general or brigadier general may, in the discretion of the Secretary of the Air Force, be retained in an active status but not beyond the date upon which he attains the maximum age prescribed for the discharge of an officer in his grade as specified in § 861.855. Not more than 10 officers in each grade may be retained at any one time.

(b) Effective July 1, 1960, each officer in an active status in the grade of first lieutenant, captain, major, and each lieutenant colonel whose name is not on a recommended list for promotion to the grade of colonel, will be discharged 30 days after the date upon which he completes 28 total years of service provided that:

(1) He is ineligible for transfer to the Retired Reserve or he is eligible but fails to apply.

(2) He has no unfulfilled service obligations as outlined in § 861.851 (e).

(c) Effective July 1, 1960, each WAF officer in an active status in the grade of lieutenant colonel or in the grade of major whose name is on a recommended list for promotion to the grade of lieutenant colonel, will be discharged 30 days after the date upon which she completes 28 total years of service, provided that she is ineligible for transfer to the Retired Reserve or she is eligible but fails to apply. A WAF officer in the grade of lieutenant colonel may, in the discretion of the Secretary of the Air Force, be retained in an active status but not beyond 30 days after the date upon which she completes 30 total years of service.

(d) Effective July 1, 1960, each WAF officer in an active status in the grade of major whose name is not on a recommended list for promotion to lieutenant colonel and each such officer in a grade below major, will be discharged 30 days after the date upon which she completes 25 total years of service provided that she is ineligible for transfer to the Retired Reserve or she is eligible but fails to apply.

§ 861.862 *Excessive numbers of officers in active status in any grade.* Whenever the Secretary of the Air Force considers that there is an excessive number of officers in an active status in any grade who have completed at least 30 total years of service or at least 20 years of satisfactory Federal service for retired pay purposes under title III, Army and Air Force Vitalization and Retirement Equalization Act of 1948, as amended pursuant to sections 101, 676, 1001, 1331–1337, 1401, 8966 of Title 10, United States Code, he may convene a board to consider all officers of that grade in an active status who have completed the above service. Unless otherwise directed by the Secretary of the Air Force, and subject to the limitations contained in paragraph (d) (1) of § 861.851, an officer who is recommended by the board for removal from an active status will be discharged, provided that:

(a) He is ineligible for transfer to the Retired Reserve or he is eligible but fails to apply.

(b) He is ineligible for assignment to the Inactive Status List Reserve Section

or he is eligible but fails to elect such assignment.

§ 861.863 *Failure to participate in Reserve training.* Subject to the limitations contained in paragraph (d) (1) of § 861.851, officers in an active status who fail to meet prescribed qualifications for retention as outlined in §§ 861.1 to 861.14 will be discharged, provided that:

(a) They are ineligible for transfer to the Retired Reserve or they are eligible but fail to apply.

(b) They do not possess minimum professional qualifications of a designated Air Force Specialty which will be required for utilization in a future mobilization warranting their retention in the Air Force Reserve and assignment to the Inactive Status List Reserve Section as prescribed in §§ 861.1 to 861.14.

(c) They have no unfulfilled service obligations as outlined in § 861.851 (e).

§ 861.864 *Failure to reply to official correspondence or inability to locate.* An officer who fails to reply to official correspondence or who cannot be located after a reasonable effort on the part of appropriate commanders will be discharged, provided that he has no unfulfilled service obligation as outlined in § 861.851 (e). When correspondence to which a reply is required is mailed to an officer and no reply is received within such reasonable time limits as local conditions may warrant, or if the correspondence is returned by postal authorities because of inability to locate the addressee, the following action will be taken:

(a) The last address reported by the officer as his permanent mailing address will be verified and the correspondence or a follow-up, as appropriate, will be mailed by registered mail, with return receipt requested to be signed only by addressee, to the verified address.

(b) If the correspondence is again returned by postal authorities because of inability to locate the addressee, local civil authorities or other persons who might reasonably be expected to assist in locating the officer may be contacted, if such action is deemed appropriate.

(c) When the officer fails to reply to correspondence within 30 days from the date of delivery, as indicated by the signed registry receipt, or when he cannot be located after reasonable efforts have been made as outlined in paragraph (b) of this section, a complete detailed report will be forwarded by the initiating organization commander to the Air Reserve Records Center.

§ 861.865 *Elimination from inactive status list.* Officers, other than those retired as airmen after 20 years' active Federal service, will not be retained on the Inactive Status List when it is determined that further retention would be of no benefit to the Air Force. Officers in this category will be discharged when it is determined from a review of their records that they are no longer proficient in their specialties or that their specialties are no longer considered for utilization in a future mobilization, provided that—

(a) They are ineligible for transfer to the Retired Reserve or they are eligible but fail to apply.

(b) They are not qualified for assignment to another training category or they are eligible but fail to request such assignment as outlined in §§ 861.1 to 861.14.

§ 861.866 *Minor children.* (a) Except as indicated in paragraph (b) of this section, a female officer who is the parent by birth or adoption of a child under 18 years of age and has personal or legal custody of such child; is the stepparent of a child under 18 years of age and the child is within the household of the woman for a period of more than 30 days a year; or who has or assumes personal custody of any child under 18 years of age, will be discharged, provided that she is ineligible for transfer to the Retired Reserve or she is eligible but fails to apply.

(b) A female officer will not be discharged under this section on the basis of circumstances which existed at the time of and did not then render her ineligible to apply for or to accept initial appointment in a Reserve component of the Armed Forces. Procurement directives after August 15, 1950, have precluded the appointment of females with minor children as Reserves of the Air Force. However, if an officer in this category becomes the parent or stepparent of a child or assumes personal custody of a child under 18 years of age under the circumstances outlined in paragraph (a) of this section, after August 15, 1950, she will be discharged, provided that she is ineligible for transfer to the Retired Reserve or she is eligible but fails to apply.

§ 861.867 *Physical disability.* Officers who are found by competent military medical authorities or authorized civilian medical authorities to be permanently medically disqualified for active military service or for active military service with a waiver will be discharged provided that they are ineligible for transfer to the Retired Reserve or they are eligible but fail to apply for such transfer.

§ 861.868 *Entrance or service in an Armed Force of a foreign country.* An officer who enters or serves in the armed forces of a foreign country may be discharged, if before such entry or service, he fails to obtain written authority for such entry or service from the Secretary of State and the Secretary of Defense.

§ 861.869 *Accepting civil employment with foreign governments.* An officer who accepts civil employment with any foreign government or any concern which is controlled in whole or in part by a foreign government may be discharged when—

(a) He has not obtained prior written approval of the Secretary of the Air Force as provided in section 1032 of Title 10, United States Code.

(b) He continues such employment after the Secretary of the Air Force has revoked his prior written approval.

§ 861.870 *Loss of nationality.* Any officer who is a national of the United States, whether by birth or by naturalization, who loses such nationality for any of the reasons outlined in the Immigration and Nationality Act, as amended (66 Stat. 166; 8 U. S. C. 1101) or any other provision of law, will be discharged.

§ 861.871 *Chaplains.* A chaplain whose ecclesiastical indorsement is withdrawn is no longer eligible to serve in the capacity of a chaplain. The officer will be discharged under this section unless conditions warrant consideration for separation action under AFR 45-40, (Discharge of Officers from the Air Force Reserve by reason of Conduct or Efficiency).

§ 861.872 *Disposition boards*—(a) *Policy.* Nonprobationary officers will not be discharged for any of the reasons outlined in §§ 861.862 to 861.870 except pursuant to the approved recommendation of a board of officers, hereafter referred to as "Disposition Board or Boards," convened by competent authority. If the officer concerned elects to tender his resignation in lieu of Board action under §§ 861.851 to 861.872 action will be taken.

(b) *Rights of respondent.* Each nonprobationary officer, hereinafter referred to as "Respondent," whose case is presented to a Disposition Board for consideration, will have the following rights:

(1) *Personal appearance or representation.* Respondent may appear in person, with or without counsel, or be represented by counsel in his absence at all open proceedings of the Board. However, he will not be reimbursed for expenses incident to his appearance, except that, upon his request, the Commander, Continental Air Command, will furnish invitational travel orders and furnish fund citation thereon for his appearance before the Board. When invitational travel orders are issued, they will direct that military air transportation will be used if available. Only where such transportation is not available will the respondent be authorized travel by commercial transportation. No per diem will be authorized. He will not be reimbursed for expenses incident to the appearance or assistance of civilian counsel to include military personnel not serving in the active military service. He may have military counsel at Government expense provided that such counsel is serving on extended active duty. He may have military counsel of his choice if such counsel is serving on extended active duty and is determined to be reasonably available by the major air commander concerned.

(2) *Challenge voting members.* Respondent may challenge for cause only any voting member of the Disposition Board.

(3) *Witnesses.* Respondent may request the appearance before the Board of any witness whose testimony he believes to be pertinent to his case specifying in his request the type of information the witness can provide. His request will be honored by the Board if the witness is considered to be reasonably available and his testimony can add materially to the case. Respondent will not be reimbursed for expenses incident to the appearance or assistance of civilian witnesses, to include military personnel not serving in the active military service. He or his counsel may question any wit-

nesses appearing before the Board considering his case.

(d) *Submit to examination.* Respondent may or may not submit to examination by the Board. Article 31, UCMJ, will be read and explained to him and he will be advised that all the rights granted thereby are extended to him. If he then desires to submit to examination or make a statement under oath, he will be sworn. If he does not desire to make a sworn statement, he may make an unsworn statement in mitigation or extenuation of the reasons for discharge. This statement may be oral or in writing or both. It may be made by the respondent or his counsel or both. In the event that the respondent elects to make an unsworn statement, he will not thereby subject himself to examination by the Board.

(e) *Submission of evidence.* Respondent, whether present or not, may submit any answer, deposition, sworn or unsworn statement, certificate, affidavit, or stipulation for consideration by the Board. He may also, at any time before the Board convenes or during the proceedings, submit a written brief concerning the whole or any phase of his case.

(f) *Retirement or resignation.* Respondent may, at any time before the time that the findings and recommendations of the Disposition Board are approved:

(1) Apply for retirement, if eligible (title II or title III, Army and Air Force Vitalization and Retirement Equalization Act of 1948), pursuant to sections 101, 676, 1001, 1331–1337, 1401, 8966 or Title 10, United States Code, or

(2) Apply for transfer to the Retired Reserve if eligible, or

(3) Tender his resignation in lieu of further action under §§ 861.851 to 861.872.

However, the Board once convened will continue until his tender of resignation or application for retirement or transfer to the Retired Reserve is approved, or until the resultant findings and recommendations of the Board have been approved by competent authority, whichever occurs first.

[SEAL] E. E. TORO,
Colonel, U. S. Air Force,
Air Adjutant General.

[F. R. Doc. 57-745; Filed, Jan. 31, 1957; 8:45 a. m.]

PART 862—AIR FORCE RESERVE OFFICERS' TRAINING CORPS

MISCELLANEOUS AMENDMENTS

In § 862.10 paragraph (a) (4) is revised and a new paragraph (d) is added, a new paragraph (e) is added to § 862.13, paragraph (b) of § 862.14 is revised and paragraph (b) (1) of § 862.18 is revised as follows:

§ 862.10 *Additional requirements.* (a) Each cadet accepted for enrollment in the advanced course:

* * * * *

(4) Must sign a deferment agreement as set forth in § 862.80. The professor of air science must make certain that cadets understand that the language in the deferment agreement and the category agreement (1056 series of AF Forms) does not conflict. Rather, the former quotes a statute and the latter a contractual agreement.

* * * * *

(d) Persons who are or ever have been conscientious objectors will not be formally enrolled in the advanced course.

§ 862.13 *Informally enrolled cadets.* * * *

(e) At certain selected institutions, highly qualified female students who desire and are accepted for concurrent enlistment in the Reserve of the Air Force and informal enrollment in the advanced AFROTC program are permitted to pursue the AFROTC course of instruction. They will be enrolled for the specific purpose of undertaking instruction in military subjects in preparation for appointment as Reserve officers of the Air Force. AF Form 1056d, "WAF-ROTC Agreement," will be used for the enrollment of these students.

§ 862.14 *Credit for previous military training.* * * *

(b) On the basis of previous honorable active service (other than six-month active duty for training) in the Air Force, Army, Navy, Marine Corps, or Coast Guard, a cadet may request a waiver of the basic course, or any portion thereof, as a requirement for entrance into the advanced course. The professor of air science may then waive so much of the basic course as he considers equivalent to the active service training, provided that he does not waive any portion which the cadet can complete prior to entrance into the advanced course. To satisfy entrance requirements for the advanced course, veterans entering an institution at freshman or sophomore level who desire a commission through AFROTC will be required to take in phase with nonveteran contemporaries the portion of the basic program which remains.

§ 862.18 *Discharge.* * * *

(b) *From advanced course.* (1) The professor of air science may discharge a cadet from the advanced course. Each such discharge, except those which are directed by Headquarters USAF, must receive the concurrence of the head of the institution or his designated representative.

(R. S. 161, sec. 202, 61 Stat. 500, as amended; 5 U. S. C. 22, 171a. Interpret or apply secs. 8540, 9382–9384, 9386, 9387, 70A Stat. 527, 568, 569, 570; 10 U. S. C. 8540, 9382–9384, 9386, 9387) [AFR 45-48A, Sept. 12, 1956]

[SEAL] E. E. TORO,
Colonel, U. S. Air Force,
Air Adjutant General.

[F. R. Doc. 57-746; Filed, Jan. 31, 1957; 8:45 a. m.]

PART 864—ENLISTED RESERVE

VOLUNTARY ENTRY ON EXTENDED ACTIVE DUTY (EAD)

In Part 864, § 864.54 is revised to read as follows:

§ 864.54 *Submission of applications.* Reservists are responsible for the accuracy of all information furnished on their applications for EAD. If any of the information changes after submission of the application, they must report this in writing to the commander to whom the data was originally sent. Reservists cannot withdraw applications after EAD orders have been issued. All personnel will use AF Form 125, Application for Extended Active Duty with the United States Air Force, to apply for EAD.

(R. S. 161, sec. 202, 61 Stat. 500, as amended; 5 U. S. C. 22, 171a. Interprets or applies sec. 672, 70A Stat. 27; 10 U. S. C. 672) [AFR 45-21A, Aug. 22, 1956]

[SEAL] E. E. TORO,
Colonel, U. S. Air Force,
Air Adjutant General.

[F. R. Doc. 57-747; Filed, Jan. 31, 1957; 8:45 a. m.]

Subchapter G—Personnel

PART 878—DECORATIONS AND AWARDS

ACCOLADES, GOLD STAR LAPEL BUTTONS, CERTIFICATES AND FAVORABLE COMMUNICATIONS

In Part 878, §§ 878.86 to 878.91 are rescinded and the following substituted therefor:

Sec.
878.86 Purpose.
878.87 Accolades.
878.88 Gold star lapel buttons.
878.89 Certificates of honorable service.
878.90 Favorable communications.

AUTHORITY: §§ 878.86 to 878.90 issued under R. S. 161, sec. 202, 61 Stat. 500, as amended; 5 U. S. C. 22, 171a. Interpret or apply secs. 2–4, 61 Stat. 710, as amended; 36 U. S. C. 182a–182d.

SOURCE: AFR 30-9, December 12, 1956.

§ 878.86 *Purpose.* Sections 878.86 to 878.90 prescribe the procedures for awarding accolades, certificates, lapel buttons and favorable communications to military personnel or their next of kin for honorable or commendable service.

§ 878.87 *Accolades.* An accolade is special recognition in the form of a scroll signed by the President of the United States. It is presented to the next of kin of members of the Armed Forces who die in line of duty during military operations. It is also presented to the next of kin of United States civilians who die overseas or as a result of injury or disease contracted while serving in civilian jobs with the Armed Forces during periods of military operations. For Air Force personnel, accolades are prepared and mailed to the next of kin by Headquarters USAF.

§ 878.88 *Gold star lapel buttons.* This lapel button is made up of a gold star one-fourth inch in diameter mounted on a purple disc three-fourths inch in diameter. The star is surrounded by a wreath of gold laurel leaves five-eights inch in diameter. The opposite side bears the inscription, "United States of America, Act of Congress, August 1947," and has space for engraving the recipient's initials. It has either a pin or clutch type fastening device.

(a) *To whom awarded.* The Gold Star Lapel Button is awarded to widows, widowers, parents and certain other relatives of members of the United States Armed Forces who lost their lives in the armed services of the United States during World War I (April 6, 1917 to March 3, 1921); World War II (September 8, 1939 to July 25, 1947 at 12 o'clock noon); Korean Operation (June 27, 1950 to July 27, 1954). It also may be awarded to the next of kin of members who lose their lives during any future war or period of armed hostilities in which the United States may be engaged.

(1) *Initial issue (without cost).* One Gold Star Lapel Button is furnished without cost to the widow or widower (re-married or not), and to each parent (mother, father, stepmother, stepfather, mother through adoption, father through adoption and foster parents who stood in loco parentis).

(2) *Initial issue (at cost).* One button is furnished, at cost, to each child, brother, sister, half-brother, half-sister, step-child and adopted child.

(3) *Replacements.* Relatives may obtain, at cost, replacements for Gold Star Lapel Buttons that have been lost, destroyed or rendered unfit for use through no fault or neglect of the persons to whom they were furnished.

(4) *Source of supply.* Gold Star Lapel Buttons, either the initial issue or replacement, may be obtained by writing to the Director, Air Force Records Center, Defense Military Personnel Records Center, 9700 Page Avenue, St. Louis 14, Missouri.

(b) *Penalty for fraudulent use.* Section 4 of the act of August 1, 1947, as amended (61 Stat. 710; 36 U. S. C. 182d) provides that: "Whoever shall (1) wear, display on his person, or otherwise use as an insignia, any Gold Star Lapel Button issued to another person under the provisions of law; (2) falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged, or counterfeited, or aid in falsely making, forging or counterfeiting any lapel button authorized by the law; or (3) sell or bring into the United States, or any place subject to the jurisdiction thereof, from any foreign place, or have in his possession any such false, forged, or counterfeited lapel button, shall be fined not more than $1,000 or imprisoned not more than two years, or both."

§ 878.89 *Certificates of honorable service.* These certificates are testimonials of honest and faithful service which are awarded by Headquarters USAF to the next of kin of those who die in line of duty while honorably serving in the Air Force.

§ 878.90 *Favorable communications.* A favorable communication is any letter, memorandum or similar communication which cites some unusual achievement or service that does not meet the requirements for awarding a decoration. A favorable communication will not be used as the sole basis for initiating a commendation for a decoration, but will not preclude recommending a decoration later which covers all or part of the cited period of service. The favorable communication will not be used:

(a) When the person's effectiveness report can adequately reflect the recognition;

(b) When the information contained will require the communication to become classified;

(c) To cite past achievements or service. (The provisions of this paragraph will not be used retroactively as the basis for processing any favorable communications issued in the past.)

[SEAL] E. E. TORO,
Colonel, U. S. Air Force,
Air Adjutant General.

[F. R. Doc. 57-748; Filed, Jan. 31, 1957; 8:45 a. m.]

PART 881—PERSONNEL REVIEW BOARDS

AIR FORCE DISABILITY REVIEW BOARD

In Part 881, paragraph (b) of § 881.36 is revised to read as follows:

§ 881.36 *Disposition proceedings.* * * *

(b) Normally, all records of the proceedings of the Review Board will be without classification. Upon written request from the applicant, a copy of the proceedings of the Review Board, less any exhibits which may be impractical to reproduce, will be furnished by the custodian of the master personnel records. In cases where there is possible harm to the mental health of the applicant, a copy of the proceedings of the Review Board will be furnished to the guardian or legal representative upon written request. The copy of the proceedings furnished will include as a minimum the following:

(1) A copy of the order appointing the Review Board.

(2) The findings of the retiring board or physical evaluation board affirmed.

(3) The findings of the retiring board or physical evaluation board reversed.

(4) The findings of the Review Board.

(5) The conclusions which were made by the Review Board. Subject to the foregoing restrictions and upon request of the applicant or, in cases where there is possible harm to the mental health of the applicant, upon request of the guardian or legal representative, the custodian of the master personnel records will make available for inspection a record of the proceedings of any case reviewed by the Review Board.

(R. S. 161, sec. 202, 61 Stat. 500, as amended; 5 U. S. C. 22, 171a. Interpret or apply secs. 301, 302, 58 Stat 286, 287, as amended; 38 U. S. C. 693h, 6931) [AFR 36-29B, Aug. 16, 1956]

[SEAL] E. E. TORO,
Colonel, U. S. Air Force,
Air Adjutant General.

[F. R. Doc. 57-749; Filed, Jan. 31, 1957; 8:46 a. m.]

PART 887—APPOINTMENT OF OFFICER PERSONNEL

APPOINTMENT OF OFFICERS IN THE REGULAR AIR FORCE

(VETERINARY AND MEDICAL SERVICE OFFICERS)

In Part 837, §§ 837.151 to 837.156 are revised to read as follows:

Sec.
887.151 Purpose.
887.152 Policy.
887.153 Definitions.
887.154 Grade determination.
887.155 Eligibility.
887.156 Periods.
887.157 Application.

AUTHORITY: §§ 887.151 to 887.157 issued under R. S. 161, sec. 202, 61 Stat. 500, as amended; 5 U. S. C. 22, 171a. Interpret or apply 70 Stat. 582.

DERIVATION: AFR 36-31, September 13, 1956.

§ 887.151 *Purpose.* Sections 887.151 to 887.157 establish the eligibility requirements and the procedure for application and appointment of commissioned officers (male and female) in the Regular Air Force with a view to designation for the performance of veterinary and medical service duties. Selection for such appointment will be based upon professional background and experience.

§ 887.152 *Policy.* The policy of the Air Force is to conduct an orderly build-up of the Regular Air Force toward authorized officer strength. This build-up will be accomplished by tendering Regular Air Force appointments in the grades of second lieutenant through lieutenant colonel to those persons who possess officer qualities, ability, and experience required by the Air Force. Vacancies exist in the Regular officer structure in promotion list service groups. Accordingly, applications will be considered for existing vacancies in promotion list service groups. At the time of appointment, any person, who would be entitled to a permanent grade in the Regular Air Force which is higher than the temporary or Reserve grade in which serving on active duty, is not eligible for appointment under §§ 887.151 to 887.157; this determination will be made by Headquarters USAF. Final selections of applicants will be accomplished by a board of officers at Headquarters USAF. Those applicants considered best qualified to meet the requirements of the Air Force will be selected. Such factors as manner of performance, breadth of experience, type of assignments, technical competence, and any substantiated derogatory information will be evaluated. The recommendations of the Headquarters USAF selection board will be final.

However, the President may remove from the recommended list the name of any officer who has been selected for appointment by Headquarters USAF selection board, but who, in his opinion, is not qualified for appointment.

§ 887.153 *Definitions*—(a) *Organization commander.* The commander of the organization to which the applicant is actually assigned for administrative purposes.

(b) *Test control officer.* The officer responsible for administering personnel research tests.

(c) *Major air commander.* The commander responsible for the operation and administration of any organization designated a major air command who reports directly to the Chief of Staff, USAF.

(d) *Regular officer selection test.* The Air Force Personnel Research Test 423 for a male or Air Force Personnel Research Test 424 for a female is used to measure certain qualities which are important to success as a commissioned officer.

(e) *Headquarters USAF.* Refers to the Director of Personnel Procurement and Training, Headquarters USAF, attention: AFPTR-P-3A, Washington 25, D. C.

(f) *Promotion list service credit.* That credit awarded for the purpose of determining grade, position on a promotion list, seniority in his grade in the Regular Air Force, and eligibility for promotion.

(g) *Special effectiveness report.* That special USAF Officer Effectiveness Report (AF Form 77) furnished by the applicant's commander and submitted as part of the application for a Regular Air Force appointment.

§ 887.154 *Grade determination*—(a) *Service credit.* (1) For the purpose of determining grade, position on a promotion list, seniority in his grade in the Regular Air Force, eligibility for promotion, and mandatory retirement or elimination under the Officer Personnel Act of 1947, as amended pursuant to section 8296 of Title 10, United States Code, a person appointed under §§ 887.151 to 887.157 will be credited at the time of his appointment with the active Federal commissioned service in the Armed Forces that he performed after becoming 21 years of age and before his appointment. In addition and for the same purposes, a person may be credited by Headquarters USAF with not more than 2 years of constructive service.

(2) Each person appointed with a view to designation for the performance of duty as a veterinary officer will be credited at the time of his appointment, in addition to the service with which he is credited under subparagraph (1) of this paragraph, and for the purposes of determining grade, position on the promotion list, seniority in Regular grade, and eligibility for promotion, with 3 years of service.

(3) A person appointed with a view to designation as a medical service officer, and who, at the time of appointment holds a degree of doctor of philosophy or a comparable degree in a science allied to medicine, so recognized by the Surgeon General, USAF, will be credited at the time of his appointment, in addition to the service with which he is credited under subparagraph (1) of this paragraph, and for the same purposes, with 3 years of service.

(b) *Permanent grades.* (1) Based on promotion list service credit as outlined in paragraph (a) of this section, commissioned grade of appointment will be as follows:

Promotion list service credit:	*Grade*
Less than 3 years	Second lieutenant.
3 but less than 7 years.	First lieutenant.
7 but less than 14 years.	Captain.
14 but less than 21 years	Major.
21 or more years	Lieutenant colonel.

Notwithstanding any other provision of law, no person, who was a cadet at the United States Air Force Academy or the United States Military Academy, or a midshipman at the United States Naval Academy, may be originally appointed in a commissioned grade in the Regular Air Force before the date on which his classmates at that Academy are graduated and appointed as officers. No person, who was enrolled at, but did not graduate from, an Academy, may be credited, upon appointment as a commissioned officer of the Regular Air Force, with longer service than that credited to any member of his class at that Academy whose service in the Air Force, or in the Army and the Air Force has been continuous since graduation.

(2) To prevent loss of seniority among newly appointed Regular officers and to eliminate a delay in promoting those Regular officers already on the promotion list, the appointment of an officer, who is within 6 months of becoming eligible for appointment in the next higher grade in the Regular Air Force at the time of selection, will be delayed until after the date on which he completes the necessary service for appointment in the next higher grade.

(3) The name of each person appointed under §§ 887.151 to 887.157 will be placed on the promotion list immediately below the most junior officer of the same grade who has the same or next greater amount of service credit, and will be awarded the appropriate date of rank in permanent grade.

(c) *Temporary grade.* Appointment in the Regular Air Force will not affect grade or date of rank in temporary grade held by appointee. A Reserve of the Air Force commission or Regular warrant officer appointment will be vacated on the day before the date of execution of oath of office as a Regular Air Force officer. An officer accepting a Regular Air Force appointment, who is serving in his Reserve of the Air Force grade equivalent to or higher than his Regular Air Force grade, will be tendered a temporary United States Air Force appointment in the equivalent or higher grade with no change in current active duty date of rank.

§ 887.155 *Eligibility.* Each person applying under §§ 887.151 to 887.157 must meet the eligibility requirements contained in paragraphs (a) through (g) of this section. Waivers are not authorized, except as provided for in paragraphs (b) and (c) (4) of this section.

(a) *Current status.* An applicant must hold a valid appointment as a Reserve of the Air Force officer or USAF temporary officer and must be serving as a commissioned officer in the active military service, and currently designated to perform medical service or veterinary duties pursuant to sections 8067, 8211, 8296, 8574 of Title 10, United States Code. In the event that an officer's established date of separation occurs before receipt of appointment, he may apply for indefinite active duty status, or, he may, upon approval of his organization commander, sign a specified period of time contract extending his date of separation until June 30, 1958, unless sooner released from extended active duty for the convenience of the Government. A person, released from active duty for any reason after submission of application, will no longer be considered for a Regular Air Force appointment.

(b) *Age.* At time of appointment, a person may not exceed the age of 30 by more than the number of years, months, and days he has served on active duty as a commissioned officer in the Armed Forces of the United States after attaining the age of 21. The Secretary of the Air Force may waive the above age limitation when, in his opinion, there is an inadequate number of officers with the required qualifications; but no person may be appointed if he is above the age which would permit him to complete 20 years of active Federal commissioned service before he attains his 55th birthday. Therefore, any person, who could complete a total of 20 years' active Federal commissioned service before reaching his 55th birthday may apply.

(c) *Education*—(1) *Veterinary.* Each applicant must be a graduate of a veterinary school acceptable to the Surgeon General, USAF, and legally authorized to confer the degree of Doctor of Veterinary Medicine, or its equivalent.

(2) *Medical service officers.* While not mandatory, a baccalaureate degree or higher degree in business or hospital administration, engineering, management, or its related fields or in the sciences, is desirable. An applicant must have been granted a minimum of 60 semester hours (90 quarter hours) credit toward a baccalaureate degree from a college or university listed by the Office of Education, Department of Health, Education and Welfare, in part 3 of the Education Directory, Higher Education published annually, or Accredited Higher Institutions, as having either:

(i) Nationwide accreditation.

(ii) Regional accreditation.

(iii) Accreditation by a national professional association.

(iv) Unconditional admission to the graduate school of a State university, or

(v) Full transfer-credit to a State university.

(3) An applicant whose credits are from a college or university which does not meet the criteria outlined in subparagraph (2) of this paragraph will be considered as meeting the educational

requirement, provided that he obtains a written statement from any nationally or regionally accredited college or university, indicating that a sufficient number of his credits are acceptable for admission to at least full junior standing.

(4) An applicant may request, in writing, waiver of the requirements in subparagraphs (2) and (3) of this paragraph. Such waiver will be subject to final approval by Headquarters USAF.

(d) *Citizenship.* An applicant must be a citizen of the United States. An applicant who is not a citizen by birth must furnish a certificate by an officer, notary public, or any other person authorized by law to administer oaths, giving the following information:

I certify that I have this date seen the original Certificate of Citizenship Number _____(or certified copy of court order establishing citizenship) stating that _____
(Full name)
was admitted to United States citizenship by the _____ Court of _____,
(District or county)
_____ on _____
(State) (Date)
The following person was named in the certificate as a minor child: _____
(Full name)
age _____.

NOTE: Facsimiles or copies, photographic or otherwise, will not be made of naturalization certificates under any circumstances. Act of 25 June 1948 (62 Stat. 767; 18 U. S. C. 1426 (h)) provides that "whoever, without lawful authority, prints, photographs, makes or executes any print or impression in the likeness of a certificate of arrival, declaration of intention to become a citizen, or certificate of naturalization or citizenship, or any part thereof, shall be fined not more than $5,000 or imprisoned not more than five years, or both."

(e) *Medical.* An applicant must be medically qualified. Standard Form 88, "Report of Medical Examination," and Standard Form 89, "Report of Medical History," will not be submitted with the application, but will be requested before appointment.

(f) *Background.* An applicant must be of such background, character, and reputation to insure that his appointment into the Regular Air Force would be clearly consistent with the interests of the Air Force. Each applicant selected for appointment must be the subject of a favorable National Agency Check before the date of official tender of appointment. Any person, who is or has been a conscientious objector, may not be commissioned in the Regular Air Force.

(g) *Dependents.* A male applicant is not restricted with regard to dependents. However, a female applicant, who is the parent by birth or adoption of a child under 18 years of age of whom she has personal or legal custody; is the stepparent of a child under 18 years of age and the child is within her household for a period of more than 30 days a year; or has or assumes personal custody of any child under 18 years of age, may not be appointed.

§ 887.156 *Periods*—(a) *Probationary period.* The appointment of any person under §§ 887.151 to 887.157 is probationary for 3 years and may be revoked by the Secretary of the Air Force at any time before the third anniversary of the acceptance of such appointment.

(b) *Application period.* An application may be submitted during the period October 15, 1956, to March 14, 1957. An application submitted after March 14, 1957, will be returned by the organization commander to the applicant. An application submitted under §§ 887.151 to 887.157 will remain valid until a new application period is announced by Headquarters USAF.

§ 887.157 *Application.* An applicant must comply with the following instructions:

(a) *Submitting applications.* The application will be submitted to the applicant's organization commander and will consist of the following completed documents:

(1) Two copies of AF Form 17, "Application for Appointment in the Regular Air Force." Each applicant will plainly mark at the top of the application form "Veterinary or Medical Service Officer."

(2) Original or photostat of authenticated transcripts substantiating education, or, if applicable, a written statement from any nationally or regionally accredited college or university, indicating that a sufficient number of his credits are acceptable for admission to at least full junior standing or a written request for waiver of educational requirement.

(3) Certificate from an officer verifying citizenship by naturalization as required in § 887.155 (d), if applicable.

(4) Five copies of DD Form 398, "Statement of Personal History," and one completed FBI Applicant Fingerprint Card, if applicant has not been the subject of a favorable National Agency Check or complete background investigation during current tour of active duty.

(5) Any other papers or statements considered relevant by the applicant.

(b) *Testing.* Veterinary officers, Medical Service officers with a baccalaureate degree or higher degree in business or hospital administration, engineering, management or related fields, or in the sciences, and officers with 5 or more years of active Federal commissioned service as of December 31, 1957, need not be tested. All other applicants will report for testing at the designated time and place, or make prior arrangements which are satisfactory to the appropriate commander.

(c) *Distinguished graduates.* An applicant, who has been designated a Distinguished Aviation Cadet graduate, Distinguished Officer Candidate graduate, or Distinguished Air Force Reserve Officers Training Corps graduate, should attach to his application a copy of the letter, designating him as such, to insure that special consideration is given for such achievement.

(d) *Change of address.* The military address furnished on the application will be used for contacting an applicant. The applicant must give immediate notice to the Director of Personnel Procurement and Training, Headquarters USAF, Attention: AFPTR-P-3A, Washington 25, D. C., of any permanent change of address, between submission of application and notification of final action.

(e) *Replying to communications.* An applicant, who does not promptly reply to and/or comply with all communications and instructions regarding his application and testing, will be considered as being no longer interested in a Regular commission and his application will be considered abandoned.

(f) *Returning application* Application and supporting documents, which are forwarded to Headquarters USAF, will not be returned to an applicant, except as provided for in paragraph (g) of this section.

(g) *Withdrawing application.* A person may withdraw his application at any time before acceptance of a Regular appointment by submitting a written request to the Director of Personnel Procurement and Training, Headquarters USAF, Attention: AFPTR-P-3A, Washington 25, D. C. Application and allied papers will be returned.

(h) *Compromising test questions.* An applicant must not discuss the contents of the Regular Officer Selection Test after its completion. Since officers are selected for Regular appointment on a competitive basis, any applicant who has advance information concerning test questions will be at a decided advantage over all other applicants.

[SEAL] E. E. TORO,
Colonel, U. S. Air Force,
Air Adjutant General.

[F. R. Doc. 57-750; Filed, Jan. 31, 1957; 8:46 a. m.]

TITLE 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

PART 120—ANNUAL, SPECIAL OR PERIODICAL REPORTS

RAILROAD LESSOR COMPANY ANNUAL REPORT FORM E

At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D. C., on the 17th day of January A. D. 1957.

The matter of Annual Reports from lessors to railroad companies being under further consideration, and the changes in existing regulations to be effectuated by this order being only minor changes with respect to the data to be furnished, rule-making procedures under section 4 (a) of the Administrative Procedure Act, 5 U. S. C. 1003 being deemed unnecessary:

It is ordered, That the order of February 7, 1955, in the matter of Railway Lessor Company Annual Report Form E, be, and it is hereby, modified and amended with respect to annual reports for the year ended December 31, 1956, and subsequent years, to read as shown below:

It is further ordered, That 49 CFR 120.14, be, and it is hereby, modified and amended to read as follows:

§ 120.14 *Form prescribed for lessors to railroads.* Commencing with the year ended December 31, 1956, and for subsequent years thereafter, until

further orders, all lessors to railroad companies subject to the provisions of section 20, part I, of the Interstate Commerce Act, are required to file under oath annual reports in accordance with Annual Report Form E, Railroad Lessor Companies,[1] which is made a part of this section. Such annual report shall be filed, in duplicate, in the Bureau of Transport Economics and Statistics, Interstate Commerce Commission, Washington 25, D. C., on or before March 31 of the year following the year to which it relates.

And it is further ordered, That copies of this order and of Annual Report Form E shall be served on all lessors to railroad companies subject to the provisions of section 20, part I, of the Interstate Commerce Act, and that notice of this order shall be given to the general public by depositing a copy thereof in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director of the Division of the Federal Register.

(Sec. 12, 24 Stat. 383, as amended, sec. 201, 54 Stat. 933; 49 U. S. C. 12, 904. Interprets or applies sec. 20, 24 Stat. 386, as amended, 54 Stat. 944; 49 U. S. C. 20, 913.)

By the Commission, Division 2.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F. R. Doc. 57-763; Filed, Jan. 31, 1957; 8:49 a. m.]

PART 122—MONTHLY OPERATING REPORTS

SUBPART A—RAILROADS

SELECTED INCOME AND BALANCE-SHEET ITEMS

At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D. C., on the 25th day of October A. D. 1956.

The matter of monthly reports of selected income and balance-sheet items of Class I Railroads being under further consideration, and the changes in existing regulations to be effectuated by this order being only minor changes in the data to be furnished, rule-making procedures under section 4 (a) of the Administrative Procedure Act, 5 U. S. C. 1003 (a) being deemed unnecessary:

It is ordered, That the order of October 16, 1952, in the matter of monthly reports of selected income and balance-sheet items of Class I steam railways be, and it is hereby modified and amended, with respect to reports for the month ending January 31, 1957, and subsequent months, to read as shown below:

It is further ordered, That 49 CFR 122.2 be, and it is hereby modified and amended to read as shown below:

§ 122.2 *Selected income and balance-sheet items.* Commencing with the month of January 1957, and monthly thereafter until further order, all Class I Railroads, except Class I Switching and Terminal Companies, subject to the provisions of section 20, Part I of the Interstate Commerce Act, are hereby required to file monthly reports of selected income and balance-sheet items in accordance with form of report IBS, which is attached hereto and made a part of this section. Such monthly reports shall be filed, in duplicate, in the Bureau of Transport Economics and Statistics, Interstate Commerce Commission, Washington 25, D. C., within 45 days after the end of the month to which they relate.

And it is further ordered, That copies of this order and of the attached form shall be served on all Class I Railroads, except Class I Switching and Terminal Companies, subject to the provisions of section 20, Part I of the Interstate Commerce Act, and upon every receiver, trustee, executor, administrator or assignee of any such railroad, and that notice of this order shall be given to the general public by depositing a copy thereof in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director of the Division of the Federal Register.

NOTE: The reporting requirements of this order and of report form IBS attached hereto have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942, as indicated on the form.

(Sec. 12, 24 Stat. 383, as amended; 49 U. S. C. 12. Interprets or applies sec. 20, 24 Stat. 386, as amended; 49 U. S. C. 20)

By the Commission, Division 2.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F. R. Doc. 57-762; Filed, Jan. 31, 1957; 8:49 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR (1954) Part 301]

PROCEDURE AND ADMINISTRATION

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury. These proposed regulations relate to the administrative provisions under chapter 77 of Subtitle F of the Internal Revenue Code of 1954. Prior to the final adoption of such regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention T:P, Washington 25, D. C., within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U. S. C. 7805)

[SEAL] RUSSELL C. HARRINGTON, *Commissioner of Internal Revenue.*

[1] Filed as part of original document.

MISCELLANEOUS PROVISIONS

GENERAL RULES

EFFECTIVE DATE AND RELATED PROVISIONS

MISCELLANEOUS PROVISIONS

§ 301.7501 *Statutory provisions; liability for taxes withheld or collected.*

SEC. 7501. *Liability for taxes withheld or collected*—(a) *General rule.* Whenever any person is required to collect or withhold any internal revenue tax from any other person and to pay over such tax to the United States, the amount of tax so collected or withheld shall be held to be a special fund in trust for the United States. The amount of such fund shall be assessed, collected, and paid in the same manner and subject to the same provisions and limitations (including penalties) as are applicable with respect to the taxes from which such fund arose.

(b) *Penalties.* For penalties applicable to violations of this section, see sections 6672 and 7202.

§ 301.7502 *Statutory provisions; timely mailing treated as timely filing.*

SEC. 7502. *Timely mailing treated as timely filing*—(a) *General rule.* If any claim, statement, or other document (other than a return or other document required under authority of chapter 61), required to be filed within a prescribed period or on or before a prescribed date under authority of any provision of the internal revenue laws is, after such period or such date, delivered by United States mail to the agency, officer, or office with which such claim, statement, or other document is required to be filed, the date of the United States postmark stamped on the cover in which such claim, statement, or other document is mailed shall be deemed to be the date of delivery. This subsection shall apply only if the postmark date falls within the prescribed period or on or before the prescribed date for the filing of the claim, statement, or other document, determined with regard to any extension granted for such filing, and only if the claim, statement, or other document was, within the prescribed time, deposited in the mail in the United States in an envelope or other appropriate wrapper, postage prepaid, properly addressed to the agency, office, or officer with which the claim, statement, or other document is required to be filed.

(b) *Stamp machine.* This setcion shall apply in the case of postmarks not made by the United States Post Office only if and to the extent provided by regulations prescribed by the Secretary or his delegate.

(c) *Registered mail.* If any such claim, statement, or other document is sent by United States registered mail, such registration shall be prima facie evidence that the claim, statement, or other document was delivered to the agency, office, or officer to which addressed, and the date of registration shall be deemed the postmark date.

(d) *Exception.* This section shall not apply with respect to the filing of a document in any court other than the Tax Court.

§ 301.7502–1 *Timely mailing treated as timely filing*—(a) *General rule.* Section 7502 provides that, if the requirements of such section are met, a document shall be deemed to be filed on the date of the postmark stamped on the cover in which such document was mailed. Thus, if the cover containing such document bears a timely postmark, the document will be considered filed timely although it is received after the last date, or the last day of the period, prescribed for filing such document. Section 7502 does not apply to the payment of any tax. Section 7502 is applicable only to those documents which come within the definition of such term provided by paragraph (b) of this section and only if the document is mailed in accordance with paragraph (c) of this section and is delivered in accordance with paragraph (d) of this section.

(b) *Document defined.* (1) The term "document", as used in this section, means any claim, statement, or other document required to be filed within a prescribed period or on or before a prescribed date under authority of any provision of the internal revenue laws, except as provided in the following subdivisions of this subparagraph:

(i) The term does not include any return required under authority of any internal revenue law or any other document required under authority of chapter 61. Thus, for example, such term does not include the income tax returns required by section 6012, the declarations of estimated income tax by individuals and corporations required by sections 6015 and 6016, and the estate tax and gift tax returns required by sections 6018 and 6019. Nor does the term include any return required under authority of subtitle E, relating to alcohol, tobacco, and certain other excise taxes.

(ii) The term does not include any document filed in any court other than the Tax Court, but the term does include any document filed with the Tax Court, including a petition for redetermination of a deficiency and a petition for review of a decision of the Tax Court.

(iii) The term does not include any document which is required to be filed with a bank or other depositary pursuant to section 6302 (c).

(2) A return may contain, or have attached to it, a statement which sets forth an election under the internal revenue laws. In such a case, section 7502 is applicable to the statement if the conditions of such section are met, although it does not apply to the return. Moreover, in the case of certain taxes, a return may constitute a claim for refund or credit. In such a case, section 7502 is applicable to the claim for refund or credit if the conditions of such section are met, irrespective of whether the claim is also a return.

(c) *Mailing requirements.* (1) Section 7502 is not applicable unless the document is mailed in accordance with the following requirements:

(i) The document must be contained in an envelope or other appropriate wrapper, properly addressed to the agency, officer, or office with which the document is required to be filed.

(ii) The document must be deposited in the mail in the United States with sufficient postage prepaid. For this purpose, a document is deposited in the mail in the United States when it is deposited with the domestic mail service of the United States Post Office. The domestic mail service of the United States Post Office, as defined by the postal regulations, includes mail transmitted within, among, and between the United States, its Territory and possessions, and Army-Air Force (APO) and Navy (FPO) post offices (see 39 CFR 2.1). Section 7502 does not apply to any document which is deposited with the mail service of any other country.

(iii) (*a*) If the postmark on the envelope or wrapper is made by the United States Post Office, such postmark must bear a date on or before the last date, or the last day of the period, prescribed for filing the document. If the postmark does not bear a date on or before the last date, or the last day of the period, prescribed for filing the document, the document will be considered not to be filed timely, regardless of when the document is deposited in the mail. Accordingly, the sender who relies upon the applicability of section 7502 assumes the risk that the postmark will bear a date on or before the last date, or the last day of the period, prescribed for filing the document, but see subparagraph (2) of this paragraph with respect to the use of registered mail to avoid this risk. If the postmark on the envelope or wrapper is not legible, the person who is required to file the document has the burden of proving the time when the postmark was made.

(*b*) If the postmark on the envelope or wrapper is made other than by the United States Post Office, (*1*) the postmark so made must bear a date on or before the last date, or the last day of the period, prescribed for filing the document, and (*2*) the document must be received by the agency, officer, or office with which it is required to be filed not later than the time when a document contained in an envelope or other appropriate wrapper which is properly addressed and mailed and sent by the same class of mail would ordinarily be received if it were postmarked at the same point of origin by the United States Post Office on the last date, or the last day of the period, prescribed for filing the document. If the envelope has a postmark made by the United States Post Office in addition to the postmark not so made, the postmark which was not made by the United States Post Office shall be disregarded, and whether the envelope was mailed in accordance with this subdivision shall be determined solely by applying the rule of (*a*) of this subdivision.

(2) If the document is sent by United States registered mail, the date of registration of the document shall be treated as the postmark date. Accordingly, the risk that the document will not be postmarked on the day that it is deposited in the mail may be overcome by the use of registered mail.

(3) As used in this section, the term "the last date, or the last day of the period, prescribed for filing the document" includes any extension of time granted for such filing. When the last date, or the last day of the period, prescribed for filing the document falls on a Saturday, Sunday or legal holiday, section 7503 is also applicable, so that, in applying the rules of this paragraph, the next succeeding day which is not a Saturday, Sunday, or legal holiday shall be treated as the last date, or the last day of the period, prescribed for filing the document.

(d) *Delivery.* (1) Section 7502 is not applicable unless the document is delivered by United States mail to the agency, officer, or office with which it is required to be filed. However, if the document is sent by registered mail, proof that the document was properly registered and that the envelope or wrapper was properly addressed to such agency, officer, or office shall constitute prima facie evidence that the document was delivered to such agency, officer, or office.

(2) Section 7502 is applicable only when the document is delivered after the last date, or the last day of the period, prescribed for filing the document. However, section 7502 is also applicable when a claim for credit or refund is delivered after the last day of the period specified in section 322 (b) (2) of the Internal Revenue Code of 1939 or in any other corresponding provision of

law relating to the limit on the amount of credit or refund that is allowable. For example, taxpayer A was required to file his income tax return for 1953 on or before March 15, 1954, but he secured an extension until June 15, 1954 to file such return. His return was filed on June 15, 1954, but no tax was paid at such time because the tax liability disclosed by the return had been completely satisfied by the income tax that had been withheld on his wages and by the payments of estimated tax. On March 14, 1957, A mailed in accordance with the requirements of this section a claim for refund of a portion of his 1953 tax. The envelope containing the claim was postmarked on such day, but it was not delivered to the district director's office until March 18, 1957. Under section 322 (b) (1) of the Internal Revenue Code of 1939, A's claim for refund is timely if filed within three years from June 15, 1954. However, as a result of the limitation of section 322 (b) (2) of the 1939 Code, if his claim is not filed within three years after March 15, 1954, the date on which he is deemed under section 322 (e) of the 1939 Code to have paid his 1953 tax, he is not entitled to any refund. Thus, since A's claim for refund was mailed in accordance with the requirements of this section and was delivered after the last day of the period specified in such section 322 (b) (2), section 7502 is applicable, and the claim is deemed to have been filed on March 14, 1957.

(e) *Applicability.* Section 7502 and this section are applicable with respect to any document which is mailed and delivered in accordance with the requirements of this section and which is mailed in an envelope having a postmark bearing a date after August 16, 1954, irrespective of whether the postmark is made by the United States Post Office, and irrespective of whether the tax to which the document pertains is imposed by the Internal Revenue Code of 1954 or a prior internal revenue law.

§ 301.7503 *Statutory provisions; time for performance of acts where last day falls on Saturday, Sunday, or legal holiday.*

SEC. 7503. *Time for performance of acts where last day falls on Saturday, Sunday, or legal holiday.* When the last day prescribed under authority of the internal revenue laws for performing any act falls on Saturday, Sunday, or a legal holiday, the performance of such act shall be considered timely if it is performed on the next succeeding day which is not a Saturday, Sunday, or a legal holiday. For purposes of this section, the last day for the performance of any act shall be determined by including any authorized extension of time; the term "legal holiday" means a legal holiday in the District of Columbia; and in the case of any return, statement, or other document required to be filed, or any other act required under authority of the internal revenue laws to be performed, at any office of the Secretary or his delegate, or at any other office of the United States or any agency thereof, located outside the District of Columbia but within an internal revenue district, the term "legal holiday" also means a Statewide legal holiday in the State where such office is located.

§ 301.7503–1 *Time for performance of acts where last day falls on Saturday, Sunday, or legal holiday*—(a) *In general.* Section 7503 provides that when the last day prescribed under authority of any internal revenue law for the performance of any act falls on a Saturday, Sunday, or legal holiday, such act shall be considered performed timely if performed on the next succeeding day which is not a Saturday, Sunday, or legal holiday. For this purpose, any authorized extension of time shall be included in determining the last day for performance of any act. Section 7503 is applicable only in case an act is required under authority of any internal revenue law to be performed on or before a prescribed date or within a prescribed period. For example, if the 2-year period allowed by section 6532 (a) (1) to bring a suit for refund of any internal revenue tax expires on Thursday, November 22, 1956 (Thanksgiving Day), the suit will be timely if filed on Friday, November 23, 1956, in the Court of Claims, or in a district court. Section 7503 applies to acts to be performed by the taxpayer (such as, the filing of any return of, and the payment of, any income, estate, or gift tax; the filing of a petition with the Tax Court for redetermination of a deficiency, or for review of a decision rendered by such Court; the filing of a claim for credit or refund of any tax) and acts to be performed by the Commissioner or a district director (such as, the giving of any notice with respect to, or making any demand for the payment of, any tax; the assessment or collection of any tax).

(b) *Legal holidays.* (1) For the purpose of section 7503, the term "legal holiday" includes the legal holidays in the District of Columbia. Such legal holidays are—

(i) January 1, New Year's Day (D. C. Code, Title 28, sec. 616),

(ii) January 20, when such day is Inauguration Day (D. C. Code, Title 28, sec. 616),

(iii) February 22, Washington's Birthday (D. C. Code, Title 28, sec. 616),

(iv) May 30, Memorial Day (D. C. Code, Title 28, sec. 616),

(v) July 4, Independence Day (D. C. Code, Title 28, sec. 616),

(vi) First Monday in September, Labor Day (5 U. S. C. 87),

(vii) November 11, Veterans' Day (5 U. S. C. 87a, as amended),

(viii) Fourth Thursday in November, Thanksgiving Day (5 U. S. C. 87b), and

(ix) December 25, Christmas Day (D. C. Code Title 28, sec. 616).

When a legal holiday in the District of Columbia falls on a Sunday, the next day is a legal holiday in the District of Columbia (see D. C. Code, Title 28, sec. 616).

(2) In the case of any return, statement, or other document required to be filed, or any other act required under the authority of the internal revenue laws to be performed, at any office of the Internal Revenue Service, or any other office or agency of the United States, located outside the District of Columbia, but within an internal revenue district, the term "legal holiday" includes, in addition to the legal holidays enumerated in subparagraph (1) of this paragraph, any State-wide legal holiday of the State where the act is required to be performed. If the act is performed in accordance with law at an office of the Internal Revenue Service or any other office or agency of the United States located in a Territory or possession of the United States, the term "legal holiday" includes, in addition to the legal holidays described in subparagraph (1) of this paragraph, any legal holiday which is recognized throughout the Territory or possession in which the office is located. Accordingly, if a resident of Alaska files his return with the District Director at Seattle, Washington, the extension provided by section 7503 is applicable in case the last day for filing the return is a legal holiday in the District of Columbia or in the State of Washington. However, if he files his return with an office of the Internal Revenue Service located in Alaska, such extension is applicable in case the last day for filing the return is a legal holiday in the District of Columbia or in Alaska.

(c) *Applicability.* Section 7503 and this section are applicable in any case when the last day prescribed under authority of any internal revenue law for the performance of any act falls on a Saturday, Sunday, or legal holiday, which occurs after August 16, 1954, irrespective of whether the tax in connection with which the act is required to be performed is imposed by this title or a prior internal revenue law.

§ 301.7504 *Statutory provisions; fractional parts of a dollar.*

SEC. 7504. *Fractional parts of a dollar.* The Secretary or his delegate may by regulations provide that in the allowance of any amount as a credit or refund, or in the collection of any amount as a deficiency or underpayment, of any tax imposed by this title, a fractional part of a dollar shall be disregarded, unless it amounts to 50 cents or more, in which case it shall be increased to 1 dollar.

§ 301.7505 *Statutory provisions; sale of personal property purchased by the United States.*

SEC. 7505. *Sale of personal property purchased by the United States*—(a) *Sale.* Any personal property purchased by the United States under the authority of section 6335 (e) (relating to purchase for the account of the United States of property sold under levy) may be sold by the Secretary or his delegate in accordance with such regulations as may be prescribed by the Secretary or his delegate.

(b) *Accounting.* In case of the resale of such property, the proceeds of the sale shall be paid into the Treasury as internal revenue collections, and there shall be rendered a distinct account of all charges incurred in such sales.

§ 301.7505–1 *Sale of personal property purchased by the United States*—(a) *Sale*—(1) *In general.* Any personal property (except bonds, notes, checks, and other securities) purchased by the United States under the authority of section 6335 (e) (relating to purchase for the account of the United States of property sold under levy) or the corresponding provisions of prior law may be sold by the district director who purchased such property for the United States. United States Savings Bonds shall not be sold by the district director but shall

be transferred to the Division of Loans and Currency, Treasury Department, for redemption. Other bonds, notes, checks, and other securities shall be disposed of in accordance with instructions issued by the Commissioner.

(2) *Time, place, manner, and terms of sale.* The time, place, manner, and terms of sale of personal property purchased for the United States shall be as follows:

(i) *Time, notice, and place of sale.* The property may be sold at any time after it has been purchased by the United States. A public notice of sale shall be posted at the post office nearest the place of sale and in at least two other public places. The notice shall specify the property to be sold and the time, place, manner, and conditions of sale. In addition, the district director may use such other methods of advertising as he believes will result in obtaining the highest price for the property. The place of sale shall be within the internal revenue district where the property was originally purchased for the United States. However, if the district director believes that a substantially higher price may be obtained, the sale may be held outside his district.

(ii) *Rejection of bids and adjournment of sale.* The internal revenue officer conducting the sale reserves the right to reject any and all bids and withdraw the property from the sale. When it appears to the internal revenue officer conducting the sale that an adjournment of the sale will best serve the interest of the United States, he may order the sale adjourned from time to time. If the sale is adjourned for more than 30 days in the aggregate, public notice of the sale must again be given in accordance with subdivision (i) of this subparagraph.

(iii) *Liquidated damages.* The notice shall state whether, in the case of default in payment of the bid price, any amount deposited with the United States will be retained as liquidated damages. In case liquidated damages are provided, the amount thereof shall not exceed $200.

(3) *Agreement to bid.* The district director may, before giving notice of sale, solicit offers from prospective bidders and enter into agreements with such persons that they will bid at least a specified amount in case the property is offered for sale. In such cases, the district director may also require such persons to make deposits to secure the performance of their agreements. Any such deposit, but not more than $200, shall be retained as liquidated damages in case such person fails to bid the specified amount and the property is not sold for as much as the amount specified in such agreement.

(4) *Terms of payment.* The property shall be offered for sale upon whichever of the following terms is fixed by the district director in the public notice of sale—

(i) Payment in full upon acceptance of the highest bid, without regard to the amount of such bid, or

(ii) If the aggregate price of all property purchased by a successful bidder at the sale is more than $200, an initial payment of $200 or 20 percent of the purchase price, whichever is the greater, and payment of the balance (including all costs incurred for the protection or preservation of the property subsequent to the sale and prior to final payment) within a specified period, not to exceed one month from the date of the sale.

(5) *Method of sale.* The property may be sold either—

(i) At public auction, at which open competitive bids shall be received, or

(ii) At public sale under sealed bids.

(6) *Sales under sealed bids.* The following rules, in addition to the other rules provided in this paragraph, shall be applicable to public sales under sealed bids:

(i) *Invitation to bidders.* Bids shall be solicited through a public notice of sale.

(ii) *Form for use by bidders.* A bid shall be submitted on a form which will be furnished by the district director upon request. The form shall be completed in accordance with the instructions thereon.

(iii) *Remittance with bid.* If the total bid is $200 or less, the full amount of the bid shall be submitted therewith. If the total bid is more than $200, 20 percent of such bid or $200, whichever is greater, shall be submitted therewith. Such remittance shall be by a certified, cashier's, or treasurer's check drawn on any bank or trust company incorporated under the laws of the United States or under the laws of any State, Territory, or possession of the United States, or by a United States postal, bank, express, or telegraph money order.

(iv) *Time for receiving and opening bids.* Each bid shall be submitted in a securely sealed envelope. The bidder shall indicate in the upper left hand corner of the envelope his name and address and the time and place of sale as announced in the public notice of sale. A bid will not be considered unless it is received by the internal revenue officer conducting the sale prior to the opening of the bids. The bids will be opened at the time and place stated in the notice of sale, or at the time fixed in the announcement of the adjournment of the sale.

(v) *Consideration of bids.* The internal revenue officer conducting the sale shall have the right to waive any technical defects in a bid. After the opening, examination, and consideration of all bids, the internal revenue officer conducting the sale shall announce the amount of the highest bid or bids and the name of the successful bidder or bidders, unless in the opinion of the officer a higher price can be obtained for the property than has been bid. In the event the highest bids are equal in amount (and unless in the opinion of the internal revenue officer conducting the sale a higher price can be obtained for the property than has been bid), the officer shall determine the successful bidder by drawing lots. Any remittance submitted in connection with an unsuccessful bid shall be returned to the bidder at the conclusion of the sale.

(vi) *Withdrawal of bids.* A bid may be withdrawn on written or telegraphic request received from the bidder prior to the time fixed for opening the bids. A technical defect in a bid confers no right on the bidder for the withdrawal of his bid after it has been opened.

(7) *Payment of bid price.* All payments for property sold pursuant to this section shall be made by cash or by a certified, cashier's, or treasurer's check drawn on any bank or trust company incorporated under the laws of the United States or under the laws of any State, Territory, or possession of the United States, or by a United States postal, bank, express, or telegraph money order. If payment in full is required upon acceptance of the highest bid, the payment shall be made at such time. If payment in full is not made at such time, the internal revenue officer conducting the sale may forthwith proceed again to sell the property in the manner provided in subparagraph (5) of this paragraph. If deferred payment is permitted, the initial payment shall be made upon acceptance of the bid, and the balance shall be paid on or before the date fixed for payment thereof. Any remittance submitted with a successful sealed bid shall be applied toward the purchase price.

(8) *Delivery and removal of personal property.* The risk of loss is on the purchaser of the property upon acceptance of his bid. Possession of any property shall not be delivered to the purchaser until the purchase price has been paid in full. If payment of part of the purchase price for the property is deferred, the United States will retain possession of such property as security for the payment of the balance of the purchase price and, as agent for the purchaser, will cause the property to be cared for until the purchase price has been paid in full or the sale is declared null and void for failure to make full payment of the purchase price. In such case, all charges and expenses incurred in caring for the property after acceptance of the bid shall be borne by the purchaser.

(9) *Certificate of sale.* The internal revenue officer conducting the sale shall issue a certificate of sale to the purchaser upon payment in full of the purchase price.

(b) *Accounting.* In case of the resale of such property, the proceeds of the sale shall be paid into the Treasury as internal revenue collections, and there shall be rendered by the district director a distinct account of all charges incurred in such sale. For additional accounting rules, see section 7809 and the instructions thereunder.

§ 301.7506. *Statutory provisions; administration of real estate acquired by the United States.*

SEC. 7506. *Administration of real estate acquired by the United States*—(a) *Person charged with.* The Secretary or his delegate shall have charge of all real estate which is or shall become the property of the United States by judgment of forfeiture under the internal revenue laws, or which has been or shall be assigned, set off, or conveyed by purchase or otherwise to the United States in payment of debts or penalties arising under the laws relating to internal revenue, or which has been or shall be vested in the United States by mortgage or other security for the payment of such debts, and of all trusts created for the use of the United

States in payment of such debts due them.

(b) *Sale.* The Secretary or his delegate, may, at public sale, and upon not less than 20 days' notice, sell and dispose of any real estate owned or held by the United States as aforesaid.

(c) *Lease.* Until such sale, the Secretary or his delegate may lease such real estate owned as aforesaid on such terms and for such period as the Secretary or his delegate shall deem proper.

(d) *Release to debtor.* In cases where real estate has or may become the property of the United States by conveyance or otherwise, in payment of or as security for a debt arising under the laws relating to internal revenue, and such debt shall have been paid, together with the interest thereon, at the rate of 1 percent per month, to the United States, within 2 years from the date of the acquisition of such real estate, it shall be lawful for the Secretary or his delegate to release by deed or otherwise convey such real estate to the debtor from whom it was taken, or to his heirs or other legal representatives.

§ 301.7506–1 *Administration of real estate acquired by the United States*—(a) *Persons charged with.* The district director for the internal revenue district in which the property is situated shall have charge of all real estate which is or shall become the property of the United States by judgment of forfeiture under the internal revenue laws, or which has been or shall be assigned, set off, or conveyed by purchase or otherwise to the United States in payment of debts or penalties arising under the laws relating to internal revenue, or which has been or shall be vested in the United States by mortgage, or other security for the payment of such debts, or which has been or shall be purchased for the United States under section 6335 (e) or under a corresponding provision of prior law, and of all trusts created for the use of the United States in payment of such debts due the United States.

(b) *Sale.* The district director for the internal revenue district in which the property is situated may sell any real estate owned or held by the United States as aforesaid, subject to the following rules—

(1) *Property purchased at sale under levy.* If the property was acquired as a result of being declared purchased for the United States at a sale under section 6335, relating to sale of seized property, the property shall not be sold until after the expiration of one year after such sale under levy.

(2) *Notice of sale.* A notice of sale shall be published in some newspaper published or generally circulated within the county where the property is situated, or a notice shall be posted at the post office nearest the place where the property is situated and in at least two other public places. The notice shall specify the property to be sold and the time, place, manner and conditions of sale. In addition, the district director may use other methods of advertising and of giving notice of sale if he believes such method will enhance the possibility of obtaining a higher price for the property.

(3) *Time and place of sale.* The time of the sale shall be not less than 20 days from the date of giving public notice of sale under subparagraph (2) of this paragraph. The place of sale shall be within the county where the property is situated. However, if the district director believes a substantially better price may be obtained, he may hold the sale outside such county.

(4) *Rejection of bids and adjournment of sale.* The internal revenue officer conducting the sale reserves the right to reject any and all bids and withdraw the property from the sale. When it appears to the internal revenue officer conducting the sale that an adjournment of the sale will best serve the interest of the United States, he may order the sale adjourned from time to time. If the sale is adjourned for more than 30 days in the aggregate, public notice of the sale must be given again in accordance with subparagraph (2) of this paragraph.

(5) *Liquidated damages.* The notice shall state whether, in the case of default in payment of the bid price, any amount deposited with the United States will be retained as liquidated damages. In case liquidated damages are provided, the amount thereof shall not exceed $200.

(6) *Agreement to bid.* The district director may, before giving notice of sale, solicit offers from prospective bidders and enter into agreements with such persons that they will bid at least a specified amount in case the property is offered for sale. In such cases, the district director may also require such persons to make deposits to secure the performance of their agreements. Any such deposit, but not more than $200, shall be retained as liquidated damages in case such person fails to bid the specified amount and the property is not sold for as much as the amount specified in such agreement.

(7) *Terms.* The property shall be offered for sale upon whichever of the following terms is fixed by the district director in the public notice of sale:

(i) Payment in full upon acceptance of the highest bid, or

(ii) If the price of the property purchased by a successful bidder at the sale is more than $200, an initial payment of $200 or 20 percent of the purchase price, whichever is the greater, and payment of the balance within a specified period, not to exceed one month from the date of the sale.

(8) *Method of sale.* The property may be sold either—

(i) At public auction, at which open competitive bids shall be received, or

(ii) At public sale under sealed bids.

(9) *Sales under sealed bids.* The following rules, in addition to the other rules provided in this paragraph, shall be applicable at public sales under sealed bids:

(i) *Invitation to bidders.* Bids shall be solicited through a public notice of sale.

(ii) *Form for use by bidders.* A bid shall be submitted on a form which will be furnished by the district director upon request. The form shall be completed in accordance with the instructions thereon.

(iii) *Remittance with bid.* If the total bid is $200 or less, the full amount of the bid shall be submitted therewith. If the total bid is more than $200, 20 percent of such bid or $200, whichever is greater, shall be submitted therewith. Such remittance shall be by a certified, cashier's, or treasurer's check drawn on any bank or trust company incorporated under the laws of the United States or under the laws of any State, Territory, or possession of the United States, or by a United States postal, bank, express, or telegraph money order.

(iv) *Time for receiving and opening bids.* Each bid shall be submitted in a securely sealed envelope. The bidder shall indicate in the upper left hand corner of the envelope his name and address and the time and place of sale as announced in the public notice of sale. A bid shall not be considered unless it is received by the internal revenue officer conducting the sale prior to the opening of the bids. The bids will be opened at the time and place stated in the notice of sale, or at the time fixed in the announcement of the adjournment of the sale.

(v) *Consideration of bids.* The internal revenue officer conducting the sale shall have the right to waive any technical defects in a bid. After the opening, examination, and consideration of all bids, the internal revenue officer conducting the sale shall announce the amount of the highest bid or bids and the name of the successful bidder or bidders, unless in the opinion of the officer a higher price can be obtained for the property than has been bid. In the event the highest bids are equal in amount (and unless in the opinion of the internal revenue officer conducting the sale a higher price can be obtained for the property than has been bid), the officer shall determine the successful bidder by drawing lots. Any remittance submitted in connection with an unsuccessful bid shall be returned to the bidder at the conclusion of the sale.

(vi) *Withdrawal of bids.* A bid may be withdrawn on written or telegraphic request received from the bidder prior to the time fixed for opening the bids. A technical defect in a bid confers no right on the bidder for the withdrawal of his bid after it has been opened.

(10) *Payment of bid price.* All payments for property sold pursuant to this section shall be made by cash or by a certified, cashier's, or treasurer's check drawn on any bank or trust company incorporated under the laws of the United States or under the laws of any State, Territory, or possession of the United States, or by a United States postal, bank, express, or telegraph money order. If payment in full is required upon acceptance of the highest bid, the payment shall be made at such time. If payment in full is not made at such time, the internal revenue officer conducting the sale may forthwith proceed again to sell the property in the manner provided in subparagraph (8) of this paragraph. If deferred payment is permitted, the initial payment shall be made upon acceptance of the bid, and the balance shall be paid on or before the date fixed for payment thereof. Any remittance submitted with a successful sealed bid shall be applied toward the purchase price.

(11) *Deed.* Upon payment in full of the purchase price, the district director shall execute a quitclaim deed to the purchaser.

(c) *Lease.* Until real estate is sold, the district director for the internal revenue district in which the property is situated may, in accordance with instructions issued by the Commissioner, lease such property.

(d) *Release to debtor.* In cases where real estate has or may become the property of the United States by conveyance or otherwise, in payment of or as security for a debt arising under the laws relating to internal revenue, and such debt shall have been paid, together with the interest thereon (at the rate of one percent per month), to the United States within two years from the date of the acquisition of such real estate, the district director for the internal revenue district in which the property is located may release by deed or otherwise convey such real estate to the debtor from whom it was taken, or to his heirs or other legal representatives. If property is declared purchased by the United States under section 6335, then, for the purpose of this paragraph, the date of such declaration shall be deemed to be the date of acquisition of such real estate.

(e) *Accounting.* The district director for the internal revenue district in which the property is situated shall, in accordance with section 7809 and the instructions thereunder, account for the proceeds of all sales or leases of the property and all expenses connected with the maintenance, sale, or lease of the property.

(f) *Authority of Commissioner.* Notwithstanding the other paragraphs of this section, the Commissioner may, when he deems it advisable, take charge of and assume responsibility for any real estate to which this section is applicable. In such case, the Commissioner will notify in writing the district director for the internal revenue district in which the property is situated. In any case where a single parcel of real estate is situated in more than one internal revenue district, the Commissioner may designate in writing a district director who shall have charge of and be responsible for the entire property.

§ 301.7507 *Statutory provisions; exemption of insolvent banks from tax.*

SEC. 7507. *Exemption of insolvent banks from tax*—(a) *Assets in general.* Whenever and after any bank or trust company, a substantial portion of the business of which consists of receiving deposits and making loans and discounts, has ceased to do business by reason of insolvency or bankruptcy, no tax shall be assessed or collected, or paid into the Treasury of the United States, on account of such bank or trust company, which shall diminish the assets thereof necessary for the full payment of all its depositors; and such tax shall be abated from such national banks as are found by the Comptroller of the Currency to be insolvent; and the Secretary or his delegate, when the facts shall appear to him, is authorized to remit so much of the said tax against any such insolvent banks and trust companies organized under State law as shall be found to affect the claims of their depositors.

(b) *Segregated assets; earnings.* Whenever any bank or trust company, a substantial portion of the business of which consists of receiving deposits and making loans and discounts, has been released or discharged from its liability to its depositors for any part of their claims against it, and such depositors have accepted, in lieu thereof, a lien upon subsequent earnings of such bank or trust company, or claims against assets segregated by such bank or trust company or against assets transferred from it to an individual or corporate trustee or agent, no tax shall be assessed or collected or paid into the Treasury of the United States, on account of such bank or trust company, such individual or corporate trustee or such agent, which shall diminish the assets thereof which are available for the payment of such depositor claims and which are necessary for the full payment thereof. The term "agent", as used in this subsection, shall be deemed to include a corporation acting as a liquidating agent.

(c) *Refund; reassessment; statutes of limitation.* (1) Any such tax collected shall be deemed to be erroneously collected, and shall be refunded subject to all provisions and limitations of law, so far as applicable, relating to the refunding of taxes.

(2) Any tax, the assessment, collection, or payment of which is barred under subsection (a), or any such tax which has been abated or remitted after May 28, 1938, shall be assessed or reassessed whenever it shall appear that payment of the tax will not diminish the assets as aforesaid.

(3) Any tax, the assessment, collection, or payment of which is barred under subsection (b), or any such tax which has been refunded after May 28, 1938, shall be assessed or reassessed after full payment of such claims of depositors to the extent of the remaining assets segregated or transferred as described in subsection (b).

(4) The running of the statute of limitations on the making of assessment and collection shall be suspended during, and for 90 days beyond, the period for which, pursuant to this section, assessment or collection may not be made, and a tax may be reassessed as provided in paragraphs (2) and (3) of this subsection and collected, during the time within which had there been no abatement, collection might have been made.

(d) *Exception of employment taxes.* This section shall not apply to any tax imposed by chapter 21 or chapter 23.

§ 301.7507–1 *Banks and trust companies covered.* (a) Section 7507 applies to any national bank, or bank or trust company organized under State law, a substantial portion of the business of which consists of receiving deposits and making loans and discounts, and which has—

(1) Ceased to do business by reason of insolvency or bankruptcy, or

(2) Been released or discharged from its liability to its depositors for any part of their deposit claims, and the depositors have accepted in lieu thereof a lien upon its subsequent earnings or claims against its assets either (i) segregated and held by it for benefit of the depositors or (ii) transferred to an individual or corporate trustee or agent who liquidates, holds or operates the assets for the benefit of the depositors.

(b) As used in the regulations under section 7507:

(1) The term "bank", unless otherwise indicated by the context, means any national bank, or bank or trust company organized under State law, within the scope of such section.

(2) The terms "statute of limitations" and "limitations" mean all applicable provisions of law (including section 7507) which impose, change, or affect the limitations, conditions, or requirements relative to the allowance of refunds and abatements or the assessment or collection of tax, as the case may be.

(3) The term "segregated assets" includes transferred or trusteed assets, or assets set aside or earmarked, to all or a portion of which, or the proceeds of which, the depositors are absolutely or conditionally entitled.

§ 301.7507–2 *Scope of section generally*—(a) *Purpose.* Section 7507 is intended to assist depositors of a bank which had ceased to do business by reason of insolvency to recover their deposits, by prohibiting collection of taxes of the bank which would diminish the assets necessary for payment of its depositors and also assist depositors of banks which are in financial difficulties but which, in certain conditions, continue in business.

(b) *Requisites of application.* In order that section 7507 shall operate in a case where the bank continues business it is necessary that the depositors shall agree to accept, in lieu of all or a part of their deposit claims as such, claims against segregated assets, or a lien upon subsequent earnings of the bank, or both. When such an agreement exists, no tax diminishing such assets or earnings, or both, otherwise available and necessary for payment of depositors, may be collected therefrom. If, under such an agreement, the depositors have the right also to look to the unsegregated assets of the bank for recovery, in whole or in part, the unsegregated assets are likewise, until they exceed the amount of the depositors' claims chargeable thereto, unavailable for tax collection. Any tax of such a bank, or part of any tax, which is once uncollectible under section 7507, cannot thereafter be collected except from any residue of segregated assets remaining after claims of depositors against such assets have been paid.

(c) *Interest.* For the purposes of section 7507, depositors' claims include bona fide interest, either on the deposits as such, or on the claims accepted in lieu of deposits as such.

(d) *Limitations on immunity.* Section 7507 is not primarily intended for the relief of banks as such. It does not prevent tax collection, from assets not necessary, or not available, for payment of depositors, from a bank within section 7507 (a), at any time within the statute of limitations. In other words, the immunity of such a bank is not complete, but ceases whenever, within the statutory period for collection, it becomes possible to make collection without diminishing assets necessary for payment of depositors. In the case of a bank within section 7507 (b), any immunity to which the bank is entitled is absolute except as to segregated assets. Any tax coming within such immunity may never be collected. With respect to segregated assets, such a bank is subject to the same rule as a bank within section 7507 (a), that is to say, after

claims of depositors against segregated assets have been paid, any surplus is subject, within the statute of limitations, to collection of any tax, due at any time, the collection of which was suspended by the section. The section is not for the relief of creditors other than depositors, although it may incidentally operate for their benefit. See §§ 301.7507–4 and 301.7507–9 (b).

§ 301.7507–3 *Segregated or transferred assets*—(a) *In general.* In a case involving segregated or transferred assets, it is not necessary, for application of section 7507, that the assets shall technically constitute a trust fund. It is sufficient that segregated assets be definitely separated from other assets of the bank and that transferred assets be definitely separated both from other assets of the bank and from other assets held or owned by the trustee or agent to whom assets of the bank have been transferred; that the bank be wholly or partially released from liability for repayment of deposits as such; and that the depositors have claims against the separated assets. Any excess of separated assets over the amount necessary for payment of such depositors will be available for tax collection after full payment of depositors' claims under the agreement against such assets. But see § 301.7507–9 (a).

(b) *Corporate transferees.* Where the segregated assets are transferred to a separate corporate trustee or corporate agent, the assets and earnings therefrom are within the protection of the section, until full payment of depositors' claims against such assets and earnings, no matter by whom the stock of such corporation is held, and no matter whether the assets be liquidated or operated or held for benefit of the depositors.

§ 301.7507–4 *Unsegregated assets*—(a) *Depositors' claims against assets.* (1) Claims of depositors, to the extent that they are to be satisfied out of segregated assets, will not be considered in determining the availability of unsegregated assets for tax collection. If depositors have agreed to accept payment out of segregated assets only, collection of tax from unsegregated assets will not diminish the assets available and necessary for payment of the depositors' claims. Thus, it may be possible to collect taxes from the unsegregated assets of a bank although the segregated assets are immune under the section.

(2) If the unsegregated assets of the bank are subject to any portion of the depositors' claims, such unsegregated assets will be within the immunity of the section only to the extent necessary to satisfy the claims to which such assets are subject. Taxes will still be collectible from the unsegregated assets to the extent of the amount by which the total value of such assets exceeds the liability to depositors to be satisfied therefrom. Therefore, if, for example, in the case of a bank having a tax liability, not previously immune under the section, of $50,000, the deposit claims against the bank are in the amount of $75,000, and the assets available for satisfaction of deposit claims amount to $100,000, the $50,000 tax is collectible to the extent of the $25,000 excess of assets over deposit claims. Collection is not to be postponed until the full amount of the tax is collectible.

(b) *Depositors' claims against earnings.* Even though under a bona fide agreement a bank has been released from depositors' claims as to unsegregated assets, if all or a portion of its earnings are subject to depositors' claims, all assets the earnings from which, in whole or part, are charged with the payment of depositors' claims, will be immune from tax collection. But see § 301.7507–5 (a).

§ 301.7507–5 *Earnings*—(a) *Availability for tax collection.* Earnings of a bank within section 7507 (b), whether from segregated or unsegregated assets, which are necessary for, applicable to, and actually used for, payment of depositors' claims under an agreement, are within the immunity of the section. If only a portion or percentage of income from segregated or unsegregated assets is available and necessary for payment of depositors' claims, the remaining income is available for tax collection. Earnings of the bank's first fiscal year ending after the making of the agreement not applicable to payment of depositors will be assumed to be applicable for collection of any tax due prior or subsequent to execution of the agreement. Earnings of subsequent fiscal periods from unsegregated assets not applicable to depositors' claims will be assumed to be applicable to payment of taxes as to which immunity under the section has not previously attached. Earnings from segregated assets are available for collection of tax, whether previously uncollectible under the section or not, after depositors' claims against such assets have been paid in full. See §§ 301.7507–3 (a) and 301.7507–9 (a).

(b) *Tax computation.* The fact that earnings of a given year may be wholly or partly unavailable under section 7507 for collection of taxes does not exempt the income for that year, or any part thereof, from tax liability. The section affects collectibility only, and is not concerned with taxability. Accordingly, the taxpayer's income tax return shall correctly compute the tax liability, even though in the opinion of the taxpayer it is immune from tax collection under the section. The tax shall be determined with respect to the entire gross income and not merely with respect to the portion of the earnings out of which tax may be collected. As to establishment of immunity from tax collection see § 301.7507–7.

Example. (1) An agreement, executed in the year 1954 between a bank and its depositors, provides (1) that certain assets are to be segregated for the benefit of the depositors who have waived (as claims against unsegregated assets of the bank) a percentage of their deposits; (2) that 40 percent of the bank's net earnings, for years beginning with 1954, from unsegregated assets, shall be paid to the depositors until the portion of their claims waived with respect to unsegregated assets of the bank has been paid; and (3) that the unsegregated assets shall not be subject to depositors' claims. The net income of the bank for the calendar year 1954 is $10,000, $4,000 produced by the segregated, and $6,000 produced by the unsegregated assets. Such amount shall be considered the net earnings for the purpose of section 7507 in computing the portion of the earnings to be paid to depositors. The bank has an outstanding tax liability for prior years of $7,000. The income tax liability of the bank for 1954 is 30 percent of $10,000, or $3,000, making a total outstanding tax liability of $10,000. The portion of the earnings of the bank for 1954 remaining after provision for depositors is $3,600 ($6,000 less 40 percent thereof, or $2,400). It will be assumed that of the total outstanding tax liability of $10,000, $3,600 may be assessed and collected, leaving $6,400 to be collected from any excess of the segregated assets after claims of depositors against such segregated assets have been paid in full. No part of the $6,400 immune from collection from 1954 earnings may be collected thereafter from unsegregated assets of the bank or earnings therefrom, so that except for any possible surplus of the segregated assets the $6,400 is uncollectible.

(2) In the year 1955, the earnings are again $10,000, $4,000 from segregated and $6,000 from unsegregated assets, as in 1954. However, the return filed shows income of $5,000 and a tax liability of $1,500. An investigation shows the true income to be $10,000, on which the tax is $3,000. The full $3,000 will be assumed to be collectible. The $600 difference between $3,600 (the excess of earnings from unsegregated assets over the amount going to the depositors), and the $3,000 tax for 1955, is not available for collection of the tax for prior years, which became immune as described above, but may be available for collection of tax for subsequent years.

(c) No significance attaches to the selection of the years 1954 and 1955 in the example set forth in paragraph (b) of this section. The rules indicated by the example are equally applicable to subsequent or prior years not excluded by limitations.

§ 301.7507–6 *Abatement and refund.* (a) An assessment or collection, no matter when made, if contrary to section 7507, is subject to abatement or refund within the applicable statutory period of limitations.

(b) Collection from a bank within section 7507 (b) which diminishes assets necessary for payment of depositors, if made prior to agreement with depositors, is not contrary to the section, and affords no ground for refund.

(c) Any abatement or refund is subject to existing statutory periods of limitation, which periods are not suspended or extended by section 7507. In order to secure a refund of any taxes paid for any taxable year during the period of immunity the bank must file claim therefor.

§ 301.7507–7 *Establishment of immunity.* (a) The mere allegation of insolvency, or that depositors have claims against segregated or other assets or earnings, will not of itself secure immunity from tax collection. It must be affirmatively established to the satisfaction of the district director that collection of tax will be contrary to section 7507. See also § 301.7507–8.

(b) Any claim, by a bank, or immunity under section 7507 (b), shall be supported by a statement, under oath or affirmation, which shall show: (1) The total of

depositors' claims outstanding, and (2) separately and in detail, the amount of each of the following, and the amount of depositors' claims properly chargeable against each: (i) Segregated or transferred assets; (ii) unsegregated assets; (iii) estimated future average annual earnings and profits; (iv) amount collectible from shareholders; and (v) any other resources available for payment of depositors' claims. The detail shall show the full amount of depositors' claims chargeable against each of the items in subdivisions (i) to (v), inclusive, of this paragraph even though part or all of the amount chargeable against a particular item is also chargeable against some other item or items. There shall also be filed a copy of any agreement between the bank and its depositors, and any other agreement or document bearing on the claim of immunity. The statement shall show the basis, as "book", "market", etc., of valuation of the assets.

§ 301.7507–8 *Procedure during immunity*—(a) *Statements to be filed.* As long as complete or partial immunity is claimed, a bank within section 7507 (b) shall file with each income tax return a statement as required by § 301.7507–7, in duplicate, and shall also file such additional statements as the district director may require. Whether or not additional statements shall be required, and the frequency thereof, will depend on the circumstances, including the financial status and apparent prospects of the bank, and the time which is available for assessment and collection. If a copy of an agreement or document has once been filed, a copy of the same agreement or document need not again be filed with a subsequent statement, if it is shown by the subsequent statement, when and where and with what return the copy was filed. In case of amendment a copy of the amendment must be filed with the return for the taxable year in which the amendment is made.

(b) *Failure to file.* Failure of a bank to file any required statement will be treated as indicating that the bank is not entitled to immunity.

§ 301.7507–9 *Termination of immunity*—(a) *In general.* (1) In the case of a bank within section 7507 (a), immunity will end whenever, and to the extent that, taxes may be assessed and collected, within the applicable limitation periods as extended by section 7507, without diminishing the assets available and necessary for payment of depositors. Immunity of a bank within section 7507 (b) is terminated, as to segregated assets, whenever claims of depositors against such assets have been paid in full. See § 301.7507–3. As to segregated assets, the termination of immunity is complete, and any balance remaining after payment of depositors is available, within statutory limitations, for collection of tax due at any time. However, taxes of the bank will be collectible from segregated assets only to the extent that the bank has a legal or equitable interest therein. Assets as to which there has been a complete conveyance for benefit of depositors, and the bank has bona fide been divested of all legal and equitable interest, are not available for collection of the bank's tax liability.

(2) As to unsegregated assets of a bank within section 7507 (b), immunity terminates only as to taxes thereafter becoming due. When taxes are once immune from collection, the immunity as to unsegregated assets is absolute. But see § 301.7507–4 (a).

(b) *General creditors.* While the immunity from tax collection is for protection of depositors, and not for benefit of general creditors, in some cases the immunity will not end until the assets are sufficient to cover indebtedness of creditors generally. This situation will exist where under applicable law the claims of general creditors are on a parity with those of depositors, so that to pay depositors in full it is necessary to pay all creditors in full.

(c) *Shareholder liability.* In determining the sufficiency of the assets to satisfy the depositors' claims, shareholders' liability to the extent collectible shall be treated as available assets. See § 301.7507–7.

(d) *Deposit insurance.* Deposit insurance payable to depositors shall not be treated as an asset of the bank and shall be disregarded in determining the sufficiency of the assets to meet the claims of depositors.

(e) *Notice by bank.* A bank within section 7507 (b), upon termination of immunity with respect to (1) earnings, (2) segregated or transferred assets, or (3) unsegregated assets, shall immediately notify the district director of internal revenue for the internal revenue district in which the taxpayer's returns were filed of such termination of immunity. See § 301.7507–8 (b).

(f) *Payment by bank.* As immunity terminates with respect to any assets, it will be the duty of the bank, without notice from the district director of internal revenue, to make payment of taxes collectible from such assets.

§ 301.7507–10 *Collection of tax after termination of immunity.* If, in the case of a bank within section 7507 (b), segregated assets (including earnings therefrom), in excess of those necessary for payment of outstanding deposits become available, such excess of segregated assets shall be applied toward satisfaction of accumulated outstanding taxes previously immune under the section, and not barred by the statute of limitations. But see § 301.7507–3. Where sufficient segregated or unsegregated assets are available, statutory interest shall be collected with the tax. When unsegregated assets or earnings therefrom previously immune become available for tax collection, they will be available only for collection of taxes (including interest and other additions) becoming due after immunity ceases. See the example in § 301.7507–5 (b).

§ 301.7507–11 *Exception of employment taxes.* The immunity granted by section 7507 does not apply to taxes imposed by chapter 21 or chapter 23.

§ 301.7508 *Statutory provisions; time for performing certain acts postponed by reason of war.*

SEC. 7508. *Time for performing certain acts postponed by reason of war*—(a) *Time to be disregarded.* In the case of an individual serving in the Armed Forces of the United States, or serving in support of such Armed Forces, in an area designated by the President of the United States by Executive order as a "combat zone" for purposes of section 112, at any time during the period designated by the President by Executive order as the period of combatant activities in such zone for purposes of such section, or hospitalized outside the States of the Union and the District of Columbia as a result of injury received while serving in such an area during such time, the period of service in such area, plus the period of continuous hospitalization outside the States of the Union and the District of Columbia attributable to such injury, and the next 180 days thereafter, shall be disregarded in determining, under the internal revenue laws, in respect of any tax liability (including any interest, penalty, additional amount, or addition to the tax) of such individual—

(1) Whether any of the following acts was performed within the time prescribed therefor:

(A) Filing any return of income, estate, or gift tax (except income tax withheld at source and income tax imposed by subtitle C or any law superseded thereby);

(B) Payment of any income, estate, or gift tax (except income tax withheld at source and income tax imposed by subtitle C or any law superseded thereby) or any installment thereof or of any other liability to the United States in respect thereof;

(C) Filing a petition with the Tax Court for redetermination of a deficiency, or for review of a decision rendered by the Tax Court;

(D) Allowance of a credit or refund of any tax;

(E) Filing a claim for credit or refund of any tax;

(F) Bringing suit upon any such claim for credit or refund;

(G) Assessment of any tax;

(H) Giving or making any notice or demand for the payment of any tax, or with respect to any liability to the United States in respect of any tax;

(I) Collection, by the Secretary or his delegate, by levy or otherwise, of the amount of any liability in respect of any tax,

(J) Bringing suit by the United States, or any officer on its behalf, in respect of any liability in respect of any tax; and

(K) Any other act required or permitted under the internal revenue laws specified in regulations prescribed under this section by the Secretary or his delegate:

(2) The amount of any credit or refund (including interest).

(b) *Exceptions*—(1) *Tax in jeopardy; bankruptcy and receiverships; and transferred assets.* Notwithstanding the provisions of subsection (a), any action or proceeding authorized by section 6851 (regardless of the taxable year for which the tax arose), chapter 70, or 71, as well as any other action or proceeding authorized by law in connection therewith, may be taken, begun, or prosecuted. In any other case in which the Secretary or his delegate determines that collection of the amount of any assessment would be jeopardized by delay, the provisions of subsection (a) shall not operate to stay collection of such amount by levy or otherwise as authorized by law. There shall be excluded from any amount assessed or collected pursuant to this paragraph the amount of interest, penalty, additional amount, and addition to the tax, if any, in respect of the period disregarded under subsection (a). In any case to which this paragraph relates, if the Secretary or his delegate is required to give any notice or to make any demand upon any person, such requirement shall be deemed to be satisfied

if the notice or demand is prepared and signed, in any case in which the address of such person last known to the Secretary or his delegate is in an area for which United States post offices under instructions of the Postmaster General are not, by reason of the combatant activities, accepting mail for delivery at the time the notice or demand is signed. In such case the notice or demand shall be deemed to have been given or made upon the date it is signed.

(2) *Action taken before ascertainment of right to benefits.* The assessment or collection of any internal revenue tax or of any liability to the United States in respect of any internal revenue tax, or any action or proceeding by or on behalf of the United States in connection therewith, may be made, taken, begun, or prosecuted in accordance with law, without regard to the provisions of subsection (a), unless prior to such assessment, collection, action, or proceeding it is ascertained that the person concerned is entitled to the benefits of subsection (a).

§ 301.7509 *Statutory provisions; expenditures incurred by the Post Office Department.*

SEC. 7509. *Expenditures incurred by the Post Office Department.* The Postmaster General or his delegate shall at least once a month transfer to the Treasury of the United States, together with the receipts required to be deposited under section 6803 (a), a statement of the additional expenditures in the District of Columbia and elsewhere incurred by the Post Office Department in performing the duties, if any, imposed upon such Department with respect to chapter 21, relating to the tax under the Federal Insurance Contributions Act, and the Secretary or his delegate shall be authorized and directed to advance from time to time to the credit of the Post Office Department, from appropriations made for the collection of the taxes imposed by chapter 21, such sums as may be required for such additional expenditures incurred by the Post Office Department.

§ 301.7510 *Statutory provisions; exemption from tax of domestic goods purchased for the United States.*

SEC. 7510. *Exemption from tax of domestic goods purchased for the United States.* The privilege existing by provision of law on December 1, 1873, or thereafter of purchasing supplies of goods imported from foreign countries for the use of the United States, duty free, shall be extended, under such regulations as the Secretary or his delegate may prescribe, to all articles of domestic production which are subject to tax by the provisions of this title.

§ 301.7510–1 *Exemption from tax of domestic goods purchased for the United States.* For regulations under section 7510 with respect to Tobacco Taxes, see the regulations under Part 295 of this chapter, Removal of Tobacco Products and Cigarette Papers and Tubes, Without Payment of Tax, for Use of the United States.

§ 301.7511 *Statutory provisions; exemption of consular officers and employees of foreign states from payment of internal revenue taxes on imported articles.*

SEC. 7511. *Exemption of consular officers and employees of foreign states from payment of internal revenue taxes on imported articles*—(a) *Rule of exemption.* No internal revenue tax shall be imposed with respect to articles imported by a consular officer of a foreign state or by an employee of a consulate of a foreign state, whether such articles accompany the officer or employee to his post in the United States, its insular possessions, or the Panama Canal Zone, or are imported by him at any time during the exercise of his functions therein, if—

(1) such officer or employee is a national of the state appointing him and not engaged in any profession, business, or trade within the territory specified in this subsection;

(2) the articles are imported by the officer or employee for his personal or official use; and

(3) the foreign state grants an equivalent exemption to corresponding officers or employees of the Government of the United States stationed in such foreign state.

(b) *Certificate by Secretary of State.* The Secretary of State shall certify to the Secretary of the Treasury the names of the foreign states which grant an equivalent exemption to the consular officers or employees of the Government of the United States stationed in such foreign states.

GENERAL RULES

EFFECTIVE DATE AND RELATED PROVISIONS

§ 301.7851 *Statutory provisions; applicability of revenue laws.*

SEC. 7851. *Applicability of revenue laws*—(a) *General rules.* Except as otherwise provided in any section of this title—

* * * * *

(6) *Subtitle F.*

(A) *General rule.* The provisions of subtitle F (including chapter 77, relating to miscellaneous provisions) shall take effect on the day after the date of enactment of this title and shall be applicable with respect to any tax imposed by this title. * * *

(C) *Taxes imposed under the 1939 Code.* After the date of enactment of this title, the following provisions of subtitle F shall apply to the taxes imposed by the Internal Revenue Code of 1939, notwithstanding any contrary provisions of such code:

* * * * *

(v) Chapter 77, relating to miscellaneous provisions, except that section 7502 shall apply only if the mailing occurs after the date of enactment of this title, and section 7503 shall apply only if the last date referred to therein occurs after the date of enactment of this title. * * *

[F. R. Doc. 57–768; Filed, Jan. 31, 1957; 8:50 a. m.]

NOTICES

DEPARTMENT OF COMMERCE

Civil Aeronautics Administration

[Amdt. 13]

ORGANIZATION AND FUNCTIONS

CHANGES IN ADDRESSES OF AIRPORT DISTRICT OFFICES

In accordance with the public information requirements of the Administrative Procedure Act, the Organization and Functions of the Civil Aeronautics Administration, section 21 (b) is amended to include a new address and also the following changes of addresses of Airport District Offices:

1. Region 2 Atlanta, Ga., 50 Seventh Street NE., as published on April 10, 1954, 19 F. R. 2100 is changed to 900 Peachtree Street NE., Atlanta 9, Ga.

2. Region 3 Kansas City, Mo., Federal Office Bldg., 911 Walnut Street, as published on May 11, 1954, 19 F. R. 2706 is changed to 720 Delaware Street, Kansas City 6, Mo.

3. Region 4 Los Angeles, Calif., 5651 West Manchester Avenue, as published on May 11, 1954, 19 F. R. 2706, after March 1, 1957, will serve the southern California area, south of Fresno.

Oakland, Calif.—A new Airport District Office will be opened on March 1, 1957, at International Terminal Building, Metropolitan Oakland International Airport, to serve the northern California area, Fresno and north.

[SEAL] JAMES T. PYLE,
Administrator of Civil Aeronautics.

[F. R. Doc. 57–751; Filed, Jan. 31, 1957; 8:46 a. m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

COMPREHENSIVE PROGRAMS FOR WATER POLLUTION CONTROL TREATMENT WORKS NEEDS OF STATES, MUNICIPALITIES, INTERSTATE AND INTERMUNICIPAL AGENCIES

AMENDMENT OF LIST OF LOCATIONS

Notice is hereby given that the list of locations of treatment works needs, included in comprehensive programs prepared or developed pursuant to section 2 of the Federal Water Pollution Control Act (70 Stat. 498, 33 U. S. C. 466a), which was published at 21 F. R. 8670 on November 9, 1956, is hereby revised as set forth below. This list may be further revised from time to time by the Surgeon General of the Public Health Service. Copies of such comprehensive programs are available for inspection at the regional offices of the Department of Health, Education, and Welfare.

Dated: January 14, 1957.

[SEAL] L. E. BURNEY,
Surgeon General.

Approved: January 28, 1957.

M. B. FOLSOM,
Secretary.

ARKANSAS

Add:
Hot Springs (Stokes Creek).

CALIFORNIA

Add:
Ukiah Valley Sanitation District.
Upland.
Visalia.

CALIFORNIA—Continued

Change:
Anselmo (under Ross Valley Sanitary District No. 1) to San Anselmo.
Laguna to Laguna Beach.

COLORADO

Add:
Evergreen Sanitation District.
North College Avenue Sanitation District.
Change:
Little S. D. #21 to Littleton S. D. #21.
Mead to Mead Sanitation District.

FLORIDA

Add:
Bartow.
Belle Glade.
Belleview.
Bushnell.
Cocoa.
Cocoa Beach.
De Funiak Springs.
Fort Lauderdale.
Hawthorne.
Long Key Sewer System (including Pass-A-Grille).
Naples.
Niceville.
Santa Rosa Island Authority.

INDIANA

Add:
Palmyra.
Seelyville.
Yorktown.

IOWA

Add:
Clarence.
Cleve.
Coralville.
Crestwood.
Dakota City.
Epworth.
Floyd.
Halbur.
Iowa Falls.
Irwin.
Jewell.
New Albin.
Ollie.
Oskaloosa.
Spencer.
Spirit Lake.
Waverly.
Webster City.
Webster County Home.
Whiting.
Winthrop.

KANSAS

Add:
Mission Township Sewer Districts Nos. 1 and 2 (Johnson County).
Rose Hill.

KENTUCKY

Add:
Campbell and Kenton Counties Sanitary District No. 1.

LOUISIANA

Add:
Alexandria.
Crowley.
Eunice.
Franklin.
Jennings.
Lafayette.
Metairie.
Minden.
Natchitoches.
New Iberia.
Oakdale.
Opelousas.
Pineville.
Plaquemine.
Rayne.
Ruston.
Thibodaux.
Villa Platte.

MARYLAND

Add:
Centreville.

MICHIGAN

Add:
Carleton.
Decatur.
Olivet.
Perry.
Port Sanilac.
Vernon.

MINNESOTA

Add:
Alden.
Fairbault.
Mahtomedi.
Mankato.
New London.
Newport.
Northrup.
St. Cloud.
Saulk Centre.
Upsala.
Wood Lake.
Wyckoff.
Change:
Minneapolis-St. Louis San. Dist. to Minneapolis-St. Paul San. Dist.

MISSISSIPPI

Add:
Lyon.

MISSOURI

Add:
Caruthersville.
New Madrid.
Trenton.
Wellsville.

MONTANA

Add:
Medicine Lake.
Delete:
Dixon Indian Agency.

NEBRASKA

Add:
Bartlett.
Bertrand.
Campbell.
Clarks.
Elk Creek.
Elmwood.
Juniata.
Nickerson.
Plainview.
Sargent.
Weeping Water.

NEW MEXICO

Add:
Las Vegas.

NORTH CAROLINA

Add:
Henderson.

NORTH DAKOTA

Add:
Dodge.
Makoti.
Starkweather.

OKLAHOMA

Add:
Marietta.
Omulgee.
Pryor Creek.
Sand Springs.
Sapula.
Delete:
R. S. Indian School.

OREGON

Add:
Albany.
Astoria.
Aurora.
Banks.
Bay City.
Butte Falls.
Cascade Locks.
Coburg.
Echo.
Falls City.
Gaston.
Gates.

OREGON—Continued

Add:
Gearhart.
Halsey.
Hammond.
Hubbard.
Jefferson.
Joseph.
Lexington.
Long Creek.
Madras.
Manzanita.
Mitchell.
Mount Vernon.
North Powder.
Port Orford.
Prairie City.
Redmond.
Rogue River.
Scio.
Sisters.
Troutdale.
Tualatin.
Turner.
Yamhill.

SOUTH DAKOTA

Add:
Alaska.
Armour.
Eagle Butte.
Kadoka.
Mound City.
Spearfish.
Tripp.
Viborg.

TENNESSEE

Change:
Red Bank to Red Bank-White Oak.

TEXAS

Add:
Alpine.
Ballinger.
Big Spring.
Brady.
Brownwood.
Coleman.
Colorado City.
Dallas.
Halton City.
Mineral Wells.
San Marcos.
San Angelo.
Texarkana.
Waxahachie.

VIRGINIA

Add:
Virginia Beach.
Winchester.

WASHINGTON

Add:
Auburn.
Bellingham.
Buckley.
Clarkston.
Colfax.
College Place.
Des Moines.
East Mercer Island.
Forks.
Goldendale.
Grand Coulee.
Grandview.
Issaquah.
Kelso.
Kennewick.
Lind.
Longview.
Lynden.
McCleary.
Malden.
Morton.
Northport.
Oakville.
Olympia.
Omak.
Pacific.
Pacific Beach S. D.
Pasco.
Poulsbo.

WASHINGTON—Continued

Add:
Pullman.
Puyallup.
Quincy.
Reardon.
Rosalia.
Roy.
Seelye S. D.
Shelton.
Tonasket.
Walla Walla.
Westport.
Winlock.
Winslow.
Woodland.

Change:
Bellevue to Bellevue Sewer District.

WISCONSIN

Add:
Clayton.
Dresser.
Garden Village.
Hales Corner.

[F. R. Doc. 57-758; Filed, Jan. 31, 1957; 8:48 a. m]

FEDERAL POWER COMMISSION

[Docket No. E-6726]

AMESBURY ELECTRIC LIGHT CO. ET AL.

NOTICE OF APPLICATION

JANUARY 28, 1957.

In the matter of, Amesbury Electric Light Company, Essex County Electric Company, Haverhill Electric Company, Lawrence Electric Company, The Lowell Electric Light Corporation, New England Power Company, Docket No. E-6726.

Take notice that on January 22, 1957, an application was filed with the Federal Power Commission pursuant to section 203 of the Federal Power Act by Amesbury Electric Light Company of Amesbury, Massachusetts (hereinafter referred to as "Amesbury"), Essex County Electric Company of Salem, Massachusetts (hereinafter referred to as "Essex"), Haverhill Electric Company of Haverhill, Massachusetts (hereinafter referred to as "Haverhill"), Lawrence Electric Company of Lawrence, Massachusetts (hereinafter referred to as "Lawrence"), The Lowell Electric Light Corporation of Lowell, Massachusetts (hereinafter referred to as "Lowell"), and New England Power Company of Boston, Massachusetts (hereinafter referred to as "NEPCO"). All of the foregoing Applicants are corporations organized under the laws of the State of Massachusetts. NEPCO is also authorized to do business as a foreign corporation in the States of New Hampshire and Vermont. Applicants seek an order authorizing the merger of Amesbury, Haverhill, Lawrence and Lowell with and into Essex and the transfer, following said merger, of certain 23 KV property from NEPCO to Essex. Essex proposes to issue its capital stock in exchange for capital stock of Amesbury, Haverhill, Lawrence and Lowell. The transfer of the 23 KV property from NEPCO to Essex will be made at the net book value thereof. As a result of the merger Essex will acquire all of the facilities of Amesbury, Haverhill, Lawrence and Lowell, consisting principally of distribution facilities which Essex will continue to use in its distribution of electricity. Essex will also acquire certain generating plants owned by Amesbury, Haverhill, Lawrence and Lowell and continue to use said generating plants on the same basis as now used by such Applicants. The 23 KV property which will be transferred from NEPCO to Essex will be used by Essex for delivery of electricity from NEPCO's high tension system to distribution areas of the enlarged Essex territory. Effective upon consummation of the proposed merger and transfer of said 23 KV property the separate wholesale contracts covering purchases of electric energy from NEPCO by Essex, Haverhill, Lawrence and Lowell and the wholesale contract covering purchases of electric energy from Haverhill by Amesbury will be cancelled, and a single contract covering purchases by the enlarged Essex Company from NEPCO will be substituted. No changes will be made in the basic rates as a result of the new contract, but Applicants state that the new contract would result in a decrease in the cost of electric energy to Essex which may amount to approximately $63,000 annually. Essex will succeed to various other contracts of the merging companies, without changes of substance, including contracts with NEPCO for the sale of electric energy generated at the steam plants of the merging companies, the contract of Lawrence for the sale of electric energy to Granite State Electric Company and the contracts for the sale of electric energy by various of the merging companies to others for resale.

Any person desiring to be heard or make any protest with reference to said application should on or before the 20th day of February 1957, file with the Federal Power Commission, Washington 25, D. C., a petition or protest in accordance with the Commission's rules of practice and procedure. The application is on file and available for public inspection.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 57-756; Filed, Jan. 31, 1957; 8:47 a. m.]

[Docket No. G-2858 etc.]

WUNDERLICH DEVELOPMENT CO. ET AL.

NOTICE OF APPLICATIONS AND DATE OF HEARING

JANUARY 28, 1957.

In the matters of Wunderlich Development Company, Docket No. G-2858; The Blackwell Oil & Gas Company, Docket No. G-3267; Kentucky Ohio Gas Company, Docket No. G-3324; Raymond L. Christman, Docket No. G-3564; Wallace Harrison, Docket No. G-3584; Union Oil and Gas Corporation of Louisiana, Docket No. G-3635; August Erickson, et al., Docket No. G-4122; Western Natural Gas Company, Docket No. G-4544; Monsanto Chemical Company, Docket No. G-6036; Monsanto Chemical Company, Docket No. G-6037; Monsanto Chemical Company, Docket No. G-6038; Monsanto Chemical Company, Docket No. G-6039; Monsanto Chemical Company, Docket No. G-6040; Monsanto Chemical Company, Docket No. G-6041; Monsanto Chemical Company, Docket No. G-6042; Monsanto Chemical Company, Docket No. G-6043; Phillips Drilling Corporation, Docket No. G-6609; B. H. Putnam, Operator, Docket No. G-6882; C. W. Alexander, Docket No. G-6932; United Producing Company, Inc., Docket No. G-7230; Murphy Oil Company of Oklahoma, Inc., Docket No. G-7480; Kenwood Oil Company, Docket No. G-7752; Schermerhorn Oil Corporation and J. Hiram Moore, Docket No. G-7753.

Take notice that the persons hereinabove captioned (Applicants), filed, as hereinafter indicated in the various dockets, separate applications for certificates of public convenience and necessity pursuant to section 7 (c) of the Natural Gas Act, authorizing Applicants to render service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the applications which are on file with the Commission and open for public inspection.

Each Applicant in each docket sells natural gas in interstate commerce from production of certain leases, units or acreage located in the area hereinafter designated to the respective purchasers as indicated for resale.

On March 12, 1956, the Applicant in Docket No. G-3267 submitted information indicating that all gas delivered to Cimarron Gas Company, Consolidated Gas Utilities, Oklahoma Natural Gas Company, Sunray Mid-Continent Oil Corporation and Lone Star Gas Company is sold and consumed within the state wherein it is produced.

Docket Number; Name of Applicant; Source of Gas; Purchaser

G-2858; Wunderlich Development Company; Vernon Field, Kay County, Oklahoma; Cities Service Gas Company.

G-3267; The Blackwell Oil & Gas Company; Milner and Williamson Leases, Haynesville Field, Claiborne Parish, Louisiana; Louisiana Nevada Transit Company.

Furneaux Lease, Panhandle Field, Gray County, Texas; Phillips Petroleum Company.

Broyles Field, Payne County, Oklahoma; Cimarron Gas Company.

Cushing Field, Payne County, Oklahoma; Consolidated Gas Utilities.

East Ingalls Field, Payne County, Oklahoma; Oklahoma Natural Gas Company.

Allen Field, Seminole County, Oklahoma; Sunray Mid-Continent Oil Corporation.

Opelika Field, Henderson County, Texas; Lone Star Gas Company.

G-3324 as amended 12-17-54; Kentucky Ohio Gas Company; Saltlick Field, Floyd County, Kentucky; Southeastern Gas Company (formerly Hamilton Gas Corporation).

G-3564; Raymond L. Christman; Benezette Township, Elk County, Pennsylvania; New York State Natural Gas Corporation.

G-3584; Wallace Harrison; North Lansing Field, Harrison County, Texas; Arkansas Louisiana Gas Company.

G-3635 as amended 6-16-55 and 9-11-56; Union Oil and Gas Corporation of Louisiana (formerly Union Sulphur and Oil Corporation);[1] Lake Arthur, Welsh and Woodlawn Fields, Jefferson Davis Parish, Louisiana; Texas Gas Transmission Corporation (successor to Louisiana Natural Gas Corporation and Texas Northern Gas Corporation).

[1] Agent for Stanolind Oil and Gas Company, Tidewater Oil Company, W. V. Conover, D. D. Feldman Oil and Gas, Walter Calcasieu Properties and Bates and Cornell.

G–4122; August Erickson, et al.;[2] South Hallsville Field, Rusk County, Texas; Arkansas Louisiana Gas Company.

G–4544; Western Natural Gas Company; St. Charles, Black Jack, San Antonio Bay and St. Charles Bay Fields, Aransas and Calhoun Counties, Texas; Transcontinental Gas Pipe Line Corporation.

Mission Valley, West Mission Valley, Arneckeville and Thomaston Fields, Victoria and DeWitt Counties, Texas; Transcontinental Gas Pipe Line Corporation.

Coquat, Goebel, Oakville, Clayton, Albert West, Harris and Kittie West Fields, Live Oak County, Texas; Transcontinental Gas Pipe Line Corporation.

G–6036 as amended 10–13–55; Monsanto Chemical Company;[3] Dollarhide Field, Andrews County, Texas; El Paso Natural Gas Company.

G–6037 as amended 10–13–55; Monsanto Chemical Company;[3] Placedo Field, Victoria County, Texas; Tennessee Gas Transmission Company.

G–6038 as amended 10–13–55; Monsanto Chemical Company;[3] Southwest Production V–17 Unit, Hico-Knowles and North Ruston Fields, Lincoln Parish, Louisiana; Texas Eastern Transmission Corporation.

G–6039 as amended 10–13–55; Monsanto Chemical Company;[3] Southwest Production V–7 Unit, Hico-Knowles and North Ruston Fields, Lincoln Parish, Louisiana; Texas Eastern Transmission Corporation.

G–6040 as amended 10–13–55; Monsanto Chemical Company;[3] Delhi, West Delhi and Big Creek Fields, Franklin, Madison and Richland Parishes, Louisiana; Texas Eastern Transmission Corporation.

G–6041 as amended 10–13–55; Monsanto Chemical Company;[3] Mayfield-Gooden Unit, Hico-Knowles Field, Lincoln Parish, Louisiana; Mississippi River Fuel Corporation.

G–6042 as amended 10–13–55; Monsanto Chemical Company;[3] B–11 Unit, Hico-Knowles Field, Lincoln Parish, Louisiana; Mississippi River Fuel Corporation.

G–6043 as amended 10–13–55; Monsanto Chemical Company;[3] Bryceland Field, Bienville Parish, Louisiana; Texas Eastern Transmission Corporation.

G–6609; Phillips Drilling Corporation; La Gloria Area, Jim Wells and Brooks Counties, Texas; Texas Illinois Natural Gas Pipeline Company.

G–6882; B. H. Putnam, Operator; Reedsville Area of Putnam Gas Field, Meigs County, Ohio; The Ohio Fuel Gas Company.

G–6932; C. W. Alexander; Pistol Ridge Field, Pearl River County, Mississippi; United Gas Pipe Line Company.

G–7230 as amended 2–7–55; United Producing Company, Inc.,[4] Hugoton Field, Texas County, Oklahoma; Northern Natural Gas Company.

G–7480; Murphy Oil Company of Oklahoma, Inc.; Doyle Pool, Stephens County, Oklahoma; Lone Star Gas Company.

G–7752 as amended 9–19–55 and 1–30–56; Kenwood Oil Company; Eumont Field, Lea County, New Mexico; Permian Basin Pipeline Company.

G–7753 as amended 9–19–55 and 1–30–56; Schermerhorn Oil Corporation and J. Hiram Moore; Eumont Field, Lea County, New Mexico; Permian Basin Pipeline Company; Langley-Mattix Field, Lea County, New Mexico; El Paso Natural Gas Company.

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[2] Paul R. Walker, Morris B. White and S. L. Florsheim, Jr.

[3] Formerly Lion Oil Company.

[4] Supplement filed February 7, 1955, in Docket No. G–7230, states that Applicant operates five wells; Columbian Fuel Corporation owns a 50-percent interest in one of these wells, and Coltexo Corporation owns a 50-percent interest in another of these wells.

These related matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on February 26, 1957, at 9:30 a. m., e. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such applications: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before February 11, 1957. Failure of any party to appear at and participate in the hearings shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 57–753; Filed, Jan. 31, 1957; 8:47 a. m.]

[Docket No. G–11777]

SUNRAY MID-CONTINENT OIL CO.

ORDER SUSPENDING PROPOSED CHANGE IN RATES

Sunray Mid-Continent Oil Company (Sunray) on December 26, 1954 tendered for filing a proposed change in its presently effective rate schedule for sales subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of Change, dated December 19, 1956.

Purchaser: Texas Eastern Transmission Corporation.

Rate schedule designation: Supplement No. 3 to Sunray's FPC Gas Rate Schedule No. 122.

Effective date: [1] January 26, 1957.

In support of the proposed increase, Sunray cites the rate provisions of its contract and states that the proposed rate is just and reasonable and not greater than the market value of the gas.

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[1] The stated effective date is the first day after expiration of the required thirty days notice, or the effective date proposed by Sunray, if later.

The increased rate and charge proposed in the aforesaid filing has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that the above-designated supplement be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority contained in sections 4 and 15 of the Natural Gas Act and the Commission's general rules and regulations (18 CFR Chapter I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of said proposed change in rates and charges; and, pending such hearing and decision thereon, the above-designated supplement be and the same hereby is suspended and the use thereof deferred until June 26, 1957, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(B) Neither the supplement hereby suspended nor the rate schedule sought to be altered shall be changed until this proceeding has been disposed of, or until the period of suspension has expired, unless otherwise ordered by the Commission.

(C) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

Issued: January 25, 1957.

By the Commission.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 57–754; Filed, Jan. 31, 1957; 8:47 a. m.]

[Docket No. G–11778]

J. C. TRAHAN DRILLING CONTRACTOR, INC., ET AL.

ORDER SUSPENDING PROPOSED CHANGE IN RATES

J. C. Trahan Drilling Contractor, Inc., (Operator) et al., (Trahan) on December 26, 1956, submitted for filing a proposed change in rate schedule for sales of natural gas subject to the jurisdiction of the Commission. The proposed change is contained in the following filing:

Description: Notice of change dated December 19, 1956.

Purchaser: Texas Eastern Transmission Corporation.

Rate Schedule Designation: Supplement No. 3 to Trahan's FPC Gas Rate Schedule No. 2.

Proposed Effective Date:[1] January 26, 1957.

In support of the proposed increased rate Trehan states that the increase arises out of the provisions of a contract, that the rate accords with the fair market value of the gas, and that the proposal is commensurate with the rising costs of labor, services and material needed for operation and development.

The proposed increased rate and charge designated above has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed changes, and that the above-designated supplement be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority contained in Sections 4 and 15 of the Natural Gas Act and the Commission's general rules and regulations (18 CFR Chapter I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge and, pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until June 26, 1957, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(B) Neither the supplement hereby suspended, nor the rate schedule sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(C) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

Issued: January 25, 1957.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 57-755; Filed, Jan. 31, 1957; 8:47 a. m.]

[1] The stated effective date is the first day after the expiration of the required thirty days notice or the effective date proposed by Trahan, if later.

CIVIL AERONAUTICS BOARD

[Docket No. 7762]

COMPLAINT FILED BY ANITA HERMAN

NOTICE OF POSTPONEMENT OF HEARING

In the matter of an investigation to determine whether General Rule 5 of the tariff rules of Northwest Airlines, Inc. and Capital Airlines, Inc. contained in Local and Joint Passenger Rules Tariff No. PR-1, C. A. B. No. 4, issued by M. F. Redfern, Agent, in effect on May 4, 1947, was unlawful.

Notice is hereby given that the hearing in the above-entitled proceeding heretofore assigned for February 25, 1957, has been postponed and will be held on April 11, 1957, at 10:00 a. m., e. s. t., in Room E-224, Temporary Building No. 5, Sixteenth Street and Constitution Avenue NW., Washington, D. C., before Examiner Barron Fredricks.

Dated at Washington, D. C., January 28, 1957.

[SEAL] FRANCIS W. BROWN, *Chief Examiner.*

[F. R. Doc. 57-777; Filed, Jan. 31, 1957; 8:52 a. m.]

[Docket No. 8457]

P. G. TAYLOR PROPRIETARY, LTD.

NOTICE OF PREHEARING CONFERENCE

In the matter of the application of P. G. Taylor Proprietary, Ltd. for a temporary foreign air carrier permit under Section 402 of the Civil Aeronautics Act for service between Sydney, Australia and Honolulu, Territory of Hawaii.

Notice is hereby given that a prehearing conference in the above-entitled application is assigned to be held on February 8, 1957, at 10:00 a. m., e. s. t., in Room E-210, Temporary Building No. 5, Sixteenth Street and Constitution Avenue NW., Washington, D. C., before Examiner John A. Cannon.

Dated at Washington, D. C., January 29, 1957.

[SEAL] FRANCIS W. BROWN, *Chief Examiner.*

[F. R. Doc. 57-778; Filed, Jan. 31, 1957; 8:52 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 812-1059]

GAS INDUSTRIES FUND, INC.

NOTICE OF FILING OF APPLICATION FOR EXEMPTION FROM PROVISIONS OF PURCHASE OF SECURITIES DURING EXISTENCE OF UNDERWRITING SYNDICATE

JANUARY 28, 1957.

Notice is hereby given that Gas Industries Fund, Inc. ("Gas Industries"), a registered open-end diversified investment company, has filed an application pursuant to section 10 (f) of the Investment Company Act of 1940 ("act") for an order of the Commission exempting from the provisions of section 10 (f) of the act the proposed purchase by Gas Industries of not more than 5,000 Units each consisting of $100 principal amount of Debentures and five shares of common stock to be issued by Trans-Canada Pipe Lines, Limited ("Trans-Canada"), a Canadian corporation, during the existence of the underwriting syndicate mentioned below.

The application states that The First Boston Corporation ("First Boston") expects to be among a group of principal underwriters which plans to sell by public offering $80,000,000 principal amount of ____ percent Subordinated Debentures due 1976 and 4,000,000 common shares (par value $1 per share) of Trans-Canada to be offered in units as stated above; that James H. Orr, a director of Gas Industries, is also a director of, and therefore an affiliated person of, First Boston; and that Gas Industries considers it desirable to be in a position to purchase not more than 5,000 units during the public offering.

Section 10 (f) of the act provides, among other things, that no registered investment company shall knowingly purchase or otherwise acquire, during the existence of any underwriting or selling syndicate any security (except a security of which such company is the issuer) a principal underwriter of which is a person of which a director of such registered investment company is an affiliated person, unless the Commission by order upon application grants an exemption therefrom. The application states that since a director of Gas Industries is an affiliated person of an investment banking organization which is part of the principal underwriting group, the proposed purchase is subject to the provisions of section 10 (f).

It is represented that the directors of Gas Industries have authorized the purchase by Gas Industries of not exceeding 5,000 of the above described units from underwriters or members of the selling group, if any, other than First Boston, except to the extent that First Boston might be included if a purchase were to be made from the representative of the principal underwriters for the account of the several underwriters.

Trans-Canada proposes to own or to lease and to operate a natural gas pipeline system for the purchase, transportation and sale of natural gas. Its general area of operation extends from the Province of Alberta across the Province of Saskatchewan, Manitoba and Ontario and through a portion of the Province of Quebec to Montreal, Canada.

The application states that if Gas Industries were to purchase the 5,000 Units it would acquire approximately .97 percent of the total comtemplated offering, and assuming a purchase price of $156 per Unit (the proposed maximum offering price set forth in the preliminary prospectus of Trans-Canada), the aggregate purchase price would represent an investment of $780,000 or approximately 1.3 percent of the total assets of Gas Industries as of December 31, 1956.

It is represented that the proposed purchase by Gas Industries is consistent with its stated investment policies.

Notice is further given that any interested person may, not later than February 11, 1957, at 5:30 p. m., submit to the Commission in writing any facts bearing upon the desirability of a hearing on the matter and may request that a hearing be held, such request stating the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if

the Commission should order a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D. C. At any time after said date, the application may be granted as provided in Rule N–5 of the rules and regulations promulgated under the act.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F. R. Doc. 57–757; Filed, Jan. 31, 1957; 8:47 a. m.]

UNITED STATES TARIFF COMMISSION

[Investigation 54]

CERTAIN COTTON CLOTH (GINGHAMS, ETC.)

INVESTIGATION DISCONTINUED AND DISMISSED

Notice is hereby given that the United States Tariff Commission, on January 29, 1957, ordered that Investigation No. 54 under section 7 of the Trade Agreements Extension Act of 1951, as amended, instituted by the Commission on June 12, 1956 (21 F. R. 4262), be discontinued and dismissed.

Issued January 29, 1957.

By order of the Commission.

[SEAL] DONN N. BENT, *Secretary.*

[F. R. Doc. 57–771; Filed, Jan. 31, 1957; 8:51 a. m.]

[Investigation 57]

SPRING CLOTHESPINS

NOTICE OF PUBLIC HEARING

The United States Tariff Commission announces a public hearing, to begin at 10 a. m., e. d. s. t., on May 7, 1957, in the Hearing Room of the Tariff Commission, 8th and E Streets NW., Washington, D. C., in connection with Investigation No. 57 under section 7 of the Trade Agreements Extension Act of 1951, as amended, and section 332 of the Tariff Act of 1930, instituted January 2, 1957, with respect to spring clothespins. Public notice of the investigation was published in 22 F. R. 156.

Requests to appear at hearing. Parties interested will be given opportunity to be present, to produce evidence, and to be heard at the above-mentioned hearing. Such parties desiring to appear at the hearing should notify the Secretary of the Commission, in writing, at least three days in advance of the date of hearing.

Issued January 29, 1957.

By order of the United States Tariff Commission.

[SEAL] DONN N. BENT, *Secretary.*

[F. R. Doc. 57–770; Filed, Jan. 31, 1957; 8:51 a. m.]

[Investigation 58]

BICYCLES

INVESTIGATION INSTITUTED AND INSPECTION OF APPLICATION

Investigation instituted. Upon application of the Bicycle Manufacturers Association of America, New York, N. Y., received January 11, 1957, the United States Tariff Commission, on the 28th day of January 1957, under the authority of section 7 of the Trade Agreements Extension Act of 1951, as amended, and section 332 of the Tariff Act of 1930, instituted an investigation to determine whether bicycles provided for in paragraph 371 of the Tariff Act of 1930 are, as a result in whole or in part of the duty or other customs treatment reflecting concessions granted thereon under the General Agreement on Tariffs and Trade, being imported into the United States in such increased quantities, either actual or relative, as to cause or threaten serious injury to the domestic industry producing like or directly competitive products.

Inspection of application. The application filed in this case is available for public inspection at the office of the Secretary, United States Tariff Commission, 8th and E Streets, NW., Washington, D. C., and at the New York office of the Tariff Commission, located in Room 437 of the Custom House, where it may be read and copied by persons interested.

Issued: January 29, 1957.

By order of the United States Tariff Commission.

[SEAL] DONN N. BENT, *Secretary.*

[F. R. Doc. 57–769; Filed, Jan. 31, 1957; 8:51 a. m.]

VIOLINS AND VIOLAS

"ESCAPE CLAUSE" REPORT

JANUARY 29, 1957.

The Tariff Commission today submitted a report to the President of its finding and conclusion in the "escape clause" investigation No. 55 made under section 7 of the Trade Agreements Extension Act of 1951, as amended, with respect to violins and violas dutiable under paragraph 1541 (b) of the Tariff Act of 1930. These instruments were subject to the following compound rates of duty, pursuant to a concession, granted in the General Agreement on Tariffs and Trade, that became effective on April 21, 1948:

Violins and violas of all sizes, wholly or partly manufactured or assembled, made after the year 1800:	
Valued at less than $50 each	$1.25 each plus 30 percent ad valorem.
Valued at $50 or more but less than $100 each	$1.25 each plus 25 percent ad valorem.
Valued at $100 or more each	$1.25 each plus 17½ percent ad valorem.

Pursuant to an additional concession granted in the General Agreement on Tariffs and Trade, the rate of duty on all violins and violas provided for in paragraph 1541 (b), regardless of value, became 62½ cents each plus 17½ percent ad valorem, effective June 6, 1951. This is the rate now in effect.

The Commission found (Commissioners Schreiber and Sutton dissenting) that imports of the aforementioned instruments valued not over $25 each are being imported into the United States in such increased quantities, both actual and relative, as to cause serious injury to the domestic industry producing like or directly competitive products. The Commission also found that in order to remedy this serious injury, it is necessary that the duty on such violins and violas valued not over $25 each be increased to $1.875 each plus 52.5 per centum ad valorem.

Copies of the Commission's report, which includes majority and minority views, are available upon request as long as the limited supply lasts. Address requests to the United States Tariff Commission, 8th and E Streets NW., Washington 25, D. C.

[SEAL] DONN N. BENT, *Secretary.*

[F. R. Doc. 57–772; Filed, Jan. 31, 1957; 8:51 a. m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

JANUARY 29, 1957.

Protests to the granting of an application must be prepared in accordance with rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 33205: *Portable houses—Onawa, Iowa, to western points.* Filed by W. J. Prueter, Agent, for interested rail carriers. Rates on wooden portable houses, poultry or livestock, milk and pump, hog feeders, cribs and bins, wooden, portable, less than carloads from Onawa, Iowa to specified points in Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin.

Grounds for relief: Short-line distance formula and circuitous routes.

FSA No. 33206: *Commodity rates from and to Kelsa, Va.* Filed by O. W. South, Jr., Agent, for interested rail carriers. Rates on various commodities, except coal and coke, carloads, and less than carloads between Kelsa, Va., on the one hand, and points in the United States and Canada, on the other, to extent rates are in effect between Grundy, Va., and the same points.

Grounds for relief: Carrier competition and circuitous routes to a newly established station.

FSA No. 33207: *Rubber tires—Elkhart and Mishawaka, Ind., to southern points.* Filed by The St. Louis-San Francisco Railway Company, for itself and on behalf of interested rail carriers. Rates on pneumatic rubber tires and parts, carloads from Elkhart and Mishawaka, Ind., to specified points in southern territory.

Grounds for relief: Circuitous routes in part west of the Mississippi River.

FSA No. 33208: *Grain and products—Moberly, Mo., to Texas ports.* Filed by The Wabash Railroad Company, Agent, for interested rail carriers. Rates on grain and grain products, carloads from Moberly, Mo., to Beaumont, Corpus Christi, Galveston, Houston, Port Arthur, and Texas City, Tex., for export.

Grounds for relief: Circuitous routes.

Tariff: Supplement 16 to Wabash Railroad Company's tariff I. C. C. 7752.

FSA No. 33209: *Petroleum products—Montana to western points.* Filed by W. J. Prueter, Agent, for interested rail carriers. Rates on refined oil, liquefied petroleum gas, coal spraying oil, asphalt, distillate fuel oil and residual fuel oils, tank-car loads from Billings, East Billings, Laurel, and Great Falls, Mont., to specified points in Iowa, Michigan, Minnesota, and Wisconsin.

Grounds for relief: Market competition and circuitous routes.

Tariff: Supplement 39 to Agent Prueter's tariff I. C. C. 1575.

FSA No. 33210: *Automobiles—Detroit, Mich., to Montana points.* Filed by W. J. Prueter, Agent, for interested rail carriers. Rates on automobiles, set up or automobile chassis, set up, carloads from Detroit, Mich., to Judith Gap and Lewistown, Mont.

Grounds for relief: Circuitous routes.

Tariff: Supplement 39 to Agent Prueter's tariff I. C. C. 1575,

FSA No. 33211: *Phosphate rock—Texas points to southwestern, western trunk line, and official territories.* Filed by F. C. Kratzmeir, Agent, for interested rail carriers. Rates on phosphate rock and superphosphate, defluorinated, carloads from Houston and Texas City, Tex., to points in southwestern, western trunk line, official (including Illinois), territories.

Grounds for relief: Short-line distance formula and circuitous routes.

Tariff: Supplement 23 to Agent Kratzmeir's tariff I. C. C. 4076.

FSA No. 33212: *Malt liquors—Illinois and Wisconsin points to Memphis, Tenn.* Filed by F. C. Kratzmeir, Agent, for interested rail carriers. Rates on malt liquors, carloads from Joliet, and Thornton, Ill., and Burlington, Wis., to Memphis, Tenn.

Grounds for relief: Circuitous routes in part west of the Mississippi River.

FSA No. 33213: *Directories—Chicago, Ill., to Cleveland, Ohio.* Filed by H. R. Hinsch, Agent, for interested rail carriers. Rates on telephone directories, carloads from Chicago, Ill., and specified points in the Chicago district grouped with Chicago to Cleveland, Ohio.

Grounds for relief: Circuitous routes.

Tariff: Supplement 7 to Chesapeake and Ohio Railway Company's tariff I. C. C. 13473.

FSA No. 33214: *Motor fuel compound from Dowling, Tex.* Filed by F. C. Kratzmeir, Agent, for interested rail carriers. Rates on motor fuel anti-knock compound, tank-car loads from Dowling, Tex., to Chicago, Ill., and Kansas City, Mo.-Kans.

Grounds for relief: Market competition and circuitous routes.

Tariff: Supplement 287 to Agent Kratzmeir's tariff I. C. C. 4139.

FSA No. 33215: *Cotton—Texas to interstate destinations.* Filed by F. C. Kratzmeir, Agent, for interested rail carriers. Rates on cotton, carloads from specified points in Texas in the Rio Grande Valley and points intermediate thereto to specified points in southwestern, southern, official, Illinois, and western trunk line territories, and Canada.

Grounds for relief: Market competition and circuitous routes.

Tariffs: Supplement 107 to Agent Kratzmeir's tariff I. C. C. 4014. Supplement 81 to Agent J. F. Brown's tariff I. C. C. 789.

By the Commission.

[SEAL] HAROLD D. McCOY,
Secretary.

[F. R. Doc. 57-759; Filed, Jan. 31, 1957; 8:48 a. m.]

[No. MC-C-2086]

SAFEWAY TRUCK LINES, INC.

COMMODITY RATES

At a session of the Interstate Commerce Commission, Board of Suspension, held at its office in Washington, D. C., on the 23d day of January, A. D. 1957.

There being under consideration the matter of rates and charges, and the rules, regulations and practices affecting such rate and charges, applicable on interstate or foreign commerce of various commodities, subject to various minimum weights, between points in Central Territory, on the one hand, and, on the other, points in Middle Atlantic and New England Territories, as set forth in:

Safeway Truck Lines, Inc.:
MF-I. C. C. No. 40;
On page 19, Item 330;
On page 20, Item 400;
On page 22, Item 430;
On page 24, Item 540;
On page 26, Item 590;
On page 27, Item 600;
On page 28, Items 680 and 690;
On page 29, Items 750 and 790, in full, and in Item 760 the 236-cent rate;
On page 30, Items 820, 840, 880, 890 and 910;
On page 31, In Item 950, the rate from Yonkers, N. Y., and Item 960, in full;
On page 32, Item 980;
On page 34, in Item 1130, the rate between Chicago, Ill., and New York, N. Y.;
On page 35, in Item 1150, the rates between Chicago, Ill., and New York, Syracuse, and Utica, N. Y.; and in Item 1160, the 169-cent rates;
On page 36, Items 1240 and 1250;
On page 37, Items 1300, 1320 and 1330;
On page 38, in Item 1380, the 120-cent rates; and in Item 1390, all rates except to Poughkeepsie, N. Y.;
On page 39, Item 1430; and
On page 40, Items 1480, 1490, 1500, 1510 and 1530;
Supplement No. 19 to MF-I. C. C. No. 40;
On page 6, in Item 390-A, the 114-cent rate;
On page 10, in Item 560-B, the 111-cent rate between Chicago, Ill., and New York, N. Y.;
On page 11, Item 595-A;
On page 14, Item 810-A;
On page 15, Item 970-A; in full; and in Item 990-A, the rates to Chicago, Ill., Cincinnati, Cleveland, and Columbus, Ohio, Indianapolis, Ind., and St. Louis. Mo.;
On page 17, Item 1260-A, in full; in Item 1110-A, the 115-cent rate; and in Item 1470-A, the 114-cent rate; and
On page 18, in Item 1520-A, the 153-cent rate;
Supplement No. 22 to MF-I. C. C. No. 40;
On page 5, in Item 1010-C, the 128-cent rate; and
On page 6, in Item 1360-B, the 114-cent rate;
Supplement No. 25 to MF-I. C. C. No. 29;
On page 9, in Item 146-C, the rates to New York, N. Y.;
MF-I. C. C. No. 39 (Lee Brothers, Inc., series);
On page 12, Item 335; and
On page 25, Item 705;
Supplement No. 26 to MF-I. C. C. No. 39 (Lee Brothers, Inc., series);
On page 6, in Item 356-A, the 109-cent rate;
On page 7, in Item 420-D, the rates between Chicago, Ill., and Poughkeepsie, N. Y.;
On page 9, in Item 507-A, the 398-cent rate to New York, N. Y.; and
On page 15, Item 518;

It appearing, that upon consideration of the tariff schedules and protests thereto, there is reason to institute an investigation to determine whether they result in rates and charges, rules or regulations and practices that are unjust and unreasonable in violation of the Interstate Commerce Act; and good cause appearing therefor:

It is ordered, That an investigation be, and it is hereby, instituted, into and concerning the lawfulness of the rates, charges, rules, regulations and practices contained in said schedules, with a view to making such findings and orders in the premises as the facts and circumstances shall warrant.

It is further ordered, That the investigation in this proceeding shall not be confined to the matters and issues hereinbefore stated as the reason for instituting this investigation, but shall include all matters and issues with respect to the lawfulness of the said rates, charges, rules, regulations and practices under the Interstate Commerce Act.

It is further ordered, That the carriers parties to the said schedules be, and they are hereby, made respondents to this proceeding; and that a copy of this order be forthwith served upon the said respondents; and that a copy of this proceeding be given to the public by posting a copy of this order in the office of the Secretary of the Commission, and by filing a copy with the Director, Division of the Federal Register.

And it is further ordered, That this matter be assigned for hearing at a time and place to be hereafter fixed.

By the Commission, Board of Suspension.

[SEAL] HAROLD D. McCOY,
Secretary.

[F. R. Doc. 57-760; Filed, Jan. 31, 1957; 8:48 a. m.]